

STATE BUILDING CODE
STATEMENT OF CIRCUMSTANCES

The State Fire Commission adopts the statewide building code for adoption and enforcement by local jurisdictions. The 1993 BOCA Codes provides the latest changes to the Model Building Code. The last code adopted was 1990, thus updating the building code is essential for building structures throughout West Virginia with the latest technology.

SUMMARY

The West Virginia State Fire Commission promulgates the State Building Code in accordance with West Virginia Code, Chapter 29, Article 3, Section 5b. The purpose of this code is to establish the rules necessary for the safeguarding of property through the quality of construction of all structures erected or renovated throughout this state.

The State Building Code adopts the Twelfth Edition of the BOCA National Building Code, 1993; BOCA National Plumbing Code, Ninth Edition, 1993; BOCA National Mechanical Code, Eighth Edition, 1993; BOCA National Property Maintenance Code, Fourth Edition, 1993; BOCA National Energy Conservation Code, Seventh Edition, 1993; and the CABO One and Two Family Dwelling Code, 1992 Edition.

WEST VIRGINIA
STATE BUILDING CODE

Rules
of the West Virginia
State Fire Commission

Approved by Secretary, Department of Military Affairs and Public
Safety.



Major General Joseph J. Skaff

August 5, 1994
Date



Bill L. Spencer, Chairman

July 28, 1994
Date

STATE FIRE COMMISSION
State Capitol
Charleston, West Virginia

TITLE 87
LEGISLATIVE RULES
STATE FIRE COMMISSION
SERIES 4
STATE BUILDING CODE

87-4-1 GENERAL

1.1 Scope: These rules and regulations establish the rules and regulations considered necessary by the State Fire Commission for the safeguarding of life and property and to ensure the quality of construction of all structures erected or renovated throughout this state.

1.2 Authority: West Virginia State Code 29-3-5b.

1.3 Filing Date: ~~July 1, 1993~~ _____

1.4 Effective Date: ~~July 1, 1993~~ _____

1.5 Incorporation of other Documents: This rule does not include a reprinting of all the requirements imposed by statute or by the incorporation of various nationally recognized standards and codes cited in Section 4.1 of these rules and regulations. For ascertaining these additional standards and requirements, it is necessary to make reference to the other documents.

87-4-2 DEFINITIONS

2.1 Building code, includes all aspects of safe building construction and mechanical operations and all safety aspects related thereto.

2.2 Fire marshal, means the West Virginia State Fire Marshal and/or his designated representatives.

2.3 Fire Commission, means the ~~eleven (11)~~ thirteen (13) appointed members of the West Virginia State Fire Commission.

2.4 Local jurisdiction, means municipal or county level government.

2.5 State Building Code, means the entire contents of this rule and the referenced national codes.

2.6 BOCA refers to the "Building Officials & Code Administrators International", 4051 Flossmor Road, Country Club Hills, Illinois, 60477-5795.

2.7 CABO refers to the "Council of American Building Officials", 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041.

87-4-3 CONFLICTS

3.1 Whenever there arises a conflict between the "state fire code" and the "state building code", the "~~state fire code~~" more stringent code shall take precedence.

3.2 Whenever there arises a conflict between the BOCA National Plumbing Code section of the "state building code" and the rules of the West Virginia State Board of Health, the rules of the Board of Health shall take precedence.

3.3 Whenever there arises a conflict between the "state building code" and statutory laws of the State of West Virginia, the West Virginia State Code shall take precedence.

87-4-4 NATIONAL STANDARDS AND CODES

4.1 The standards and requirements as set out and as published by the Building Officials & code Administrators International and the Council of American Building Officials, as listed below, shall have the same force and effect as if set out verbatim in this rule:

The BOCA National Building Code,
~~Eleventh~~ Twelfth Edition, ~~1990~~ 1993

The BOCA National Plumbing Code,
~~Eighth~~ Ninth Edition, ~~1990~~ 1993

The BOCA National Mechanical Code,
~~Seventh~~ Eighth Edition, ~~1990~~ 1993

The BOCA National Property Maintenance Code,
~~Third~~ Fourth Edition, ~~1990~~ 1993
However, Section PM-104.4 "Right of Entry" may be adopted or rejected at the option of the local jurisdiction.

The BOCA National Energy Conservation Code
~~Sixth~~ Seventh Edition, ~~1990~~ 1993

The CABO One - and Two-Family Dwelling Code
~~1989~~ 1992 Edition

4.1.1 The following structures shall not be subject to inspection by local jurisdictions:

4.1.1.a Group U utility structures and storage sheds comprising an area not more than 150 sq. ft. which have no plumbing or electrical connections and are utilized only for residential storage purposes. (Examples include storage sheds that are for the residential storage of lawnmowers, tools, bicycles or furniture.) Not included are those utility structures and storage sheds which have plumbing or electrical connections or are used for the storage of explosives or other hazardous or explosive materials.

4.2 A copy of the codes listed in Section 4.1 of this rule have been filed with the Secretary of State. These code books, collectively or separately, may be obtained by contacting the Building Officials & Code Administrators International, 4051 West Flossmoor Road, Country Club Hills, Illinois 60477-5795, telephone 708/799-2300; or BOCA International Regional Offices, 3592 Corporate Drive, Suite 107, Columbus, Ohio 43231, telephone 614/890-1061.

87-4-5 ADOPTION BY LOCAL JURISDICTION

5.1 Each local jurisdiction adopting the State Building Code shall notify the State Fire Commission in writing. A copy of the ordinance or order shall be sent to the State Fire ~~Administrator~~ Marshal, West Virginia State Fire Commission, State Capitol ~~Building, Room EB-64 Complex~~, Charleston, West Virginia 25305, within thirty (30) days of adoption.

5.2 Each local jurisdiction which adopts the State Building Code shall have responsibility for the enforcement of the building code as provided in West Virginia Code 7-1-3n and 8-12-13.

5.3 Throughout the national codes, as adopted in Section 4.1 of this rule, there are discretionary provisions which require further action by the adopting local jurisdiction in order to adapt these codes to various local conditions. It is therefore the intent of these rules to further authorize each local jurisdiction to further complete, by order or ordinance, those respective areas which are indicated to be completed by the adopting "jurisdiction".

5.4 Within the penalty sections of each of the national codes, as adopted in Section 14.1 of this rule, there is a penalty for imprisonment. The provision of imprisonment for any violation of these rules is to be considered optional with each adopting local jurisdiction.

5.5 Each of the national codes, as adopted in Section 4.1 of this rule, provides for a separate appeals board, however; the intent and requirements for an appeal board may be met with the creation by the local jurisdiction of a single appeals board for the entire "State Building Code."

87-4-6 EXISTING BUILDING CODES

6.1 All building codes which have been adopted by local jurisdictions prior to the passage of West Virginia Code 29-3-5b, shall be null and void one year following the effective date of the State Building Code of April 28, 1989.

87-4-7 SEVERABILITY

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

DATE: August 8, 1994

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: State Fire Commission

LEGISLATIVE RULE TITLE: State Building Code

1. Authorizing statute(s) citation 29-3-5b

2. a. Date filed in State Register with Notice of Hearing
May 13, 1994

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

Statewide Press Release to all news media resources

(See attachment)

c. Date of Hearing(s) June 23, 1994

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

Attached Yes No comments received

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

August 8, 1994

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

Walter Smittle III, State Fire Marshal 558-2191

L. D. Cross, Chief Deputy Fire Marshal 558-2191

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.

Non-applicable

b. Date of hearing: Non-applicable

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

Non-applicable

d. Attach findings and determinations and reasons:

Attached Non-applicable

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: State Building Code

Type of Rule: Legislative Interpretive Procedural

Agency State Fire Commission

Address 2100 Washington Street, East
Charleston, WV 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

Non-applicable

3. Objectives of these rules:

The objective of these rules provides for up-to-date technology in building construction. These rules provide minimum standards to ensure the public safety, health and welfare insofar as they are affected by building construction. And to secure safety to life and property from hazards incident to the occupancy of buildings, structure or premises.

Rule Title: State Building Code

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

These proposed rules provides the Fire Commission with updated technology in building construction. There is no cost to the State for filing these codes.

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

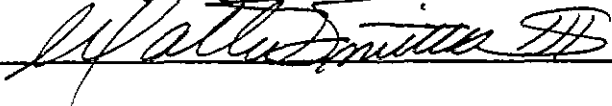
Utilization of the 1993 BOCA Building Codes will provide the latest technology in building construction to all concerned citizens.

C. Economic Impact on Citizens/Public at Large.

With the adoption of the 1993 BOCA Building Codes, a more viable program for enhancing minimum standards to ensure public safety, health and welfare through the latest building construction technology will be provided to West Virginians.

Date: August 8, 1994

Signature of Agency Head or Authorized Representative





The Department of Military Affairs and Public Safety

BILL L. SPENCER
Chairman

JOSEPH J. BOSTAR, III
Vice-Chairman

WILLIAM D. SITES
Secretary

GASTON CAPERTON, GOVERNOR
MAJOR GENERAL JOSEPH J. SKAFF
Secretary

State Fire Commission
State Capitol Complex
Charleston, West Virginia 25305

WALTER SMITTLE III
State Fire Marshal
Phone (304) 558-2191
FAX (304) 558-2537

NEWS RELEASE

The West Virginia State Fire Commission will conduct a public hearing on the proposed adoption of the 1994 National Fire Codes as part of the State Fire Code and the proposed adoption of the 1993 BOCA Codes as part of the State Building Code.

The public hearing will take place at the State Capitol, East Wing, Room E-215, at 10:00 AM, June 23, 1994. All interested individuals or organizations are encouraged to attend the public hearing or submit written comments to: State Fire Commission, c/o Mr. Bill L. Spencer, Chairman, 2100 Washington Street, East, Charleston, WV 25305. For additional information, please contact the State Fire Commission at (304) 558-2191 during regular business hours.

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP	REMARKS
BARBOUR DEMOCRAT	PO BOX 459	PHILIPPI	WV	26416	WEEKLY-WEDNESDAY
BECKLEY REGISTER/HERALD	801 NORTH KANAWHA ST.	BECKLEY	WV	25801	DAILY-SUNDAY
BLUEFIELD DAILY TELEGRAPH	P. O. BOX 1599	BLUEFIELD	WV	24701	DAILY-SUNDAY
BRAXTON CITIZEN'S NEWS	501 MAIN	SUTTON	WV	26601	WEEKLY-MONDAY
BRAXTON DEMOCRAT/CENTRAL	P. O. BOX 427	SUTTON	WV	26601	WEEKLY-FRIDAY
BUCKHANNON RECORD-DELTA	7 NORTE LOCUST ST.	BUCKHANNON	WV	26201	WEEKLY-MON & WED.
CABELL RECORD	1035 THIRD AVE.SUITE 201	HUNTINGTON	WV	25701	WEEKLY-WEDNESDAY
CHARLESTON DAILY MAIL	1001 VIRGINIA ST. E.	CHARLESTON	WV	25301	DAILY-SUNDAY
CHARLESTON GAZETTE	1001 VIRGINIA ST. E.	CHARLESTON	WV	25301	DAILY-SUNDAY
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
COAL VALLEY NEWS	P. O. BOX 508	MADISON	WV	25130	WEEKLY-WEDNESDAY
DOMINION POST	GREER BLDG. RT. 7	MORGANTOWN	WV	26505	DAILY, SUNDAY
PAYETTE TRIBUNE	417 MAIN STREET	OAK HILL	WV	25901	WEEKLY-MONDAY & THURSDAY
GRANT COUNTY PRESS	47 SOUTH MAIN ST.	PETERSBURG	WV	26847	WEEKLY-WEDNESDAY
GRANTSVILLE NEWS	P. O. BOX 400	GRANTSVILLE	WV	26147	WEEKLY-THURSDAY
GUYANDOTTE VOICE	P. O. BOX 4508	CHAPMANVILLE	WV	25508	WEEKLY-WEDNESDAY
HAMPSHIRE REVIEW	P.O. DRAWER 1036	ROMNEY	WV	26757	WEEKLY-WEDNESDAY
HANCOCK COUNTY COURIER	BOX 547	NEW CUMBERLAND	WV	26047	WEEKLY-THURSDAY
HERALD RECORD	202 EAST MAIN	WEST UNION	WV	26456	WEEKLY-TUESDAY
HINTON DAILY NEWS	BOX 1000, 210 SECOND AVE	HINTON	WV	25951	WEEKLY-TUESDAY
HOMETOWN NEWS	P.O. BOX 597	MADISON	WV	25130	WEEKLY
HURRICANE BREEZE	P. O. BOX 336	HURRICANE	WV	25526	WEEKLY-WEDNESDAY
INDEPENDENT HERALD	P. O. BOX 100, RT. 10E	PINEVILLE	WV	24874	WEEKLY-WEDNESDAY
INDUSTRIAL NEWS	P. O. BOX 180	LAEGER	WV	24844	WEEKLY-WEDNESDAY
MEADOW RIVER POST	BOX 747	RAINELLE	WV	25962	WEEKLY-THURSDAY
MINERAL DAILY NEWS-TRIBUNE	24 ARMSTRONG ST.	KEYSER	WV	26726	DAILY
MOUNDSVILLE DAILY ECHO	P. O. BOX 369	MOUNDSVILLE	WV	26041	DAILY
MOUNTAIN ECHO	24 ARMSTRONG ST.	KEYSER	WV	26726	WEEKLY-SATURDAY
MOUNTAIN STATESMAN	914 WEST MAIN ST.	GRAFTON	WV	26354	WEEKLY-TUES.THURS. & SAT.
PARKERSBURG NEWS	519 JULIANA STREET	PARKERSBURG	WV	26101	DAILY-SUNDAY
PARKERSBURG SENTINEL	519 JULIANA STREET	PARKERSBURG	WV	26101	DAILY
PARSONS ADVOCATE	212 MAIN ST.	PARSONS	WV	26287	WEEKLY-WEDNESDAY
PENNSBORO NEWS	407 MAIN STRZET	PENNSBORO	WV	26415	WEEKLY-WEDNESDAY
PLEASANTS COUNTY LEADER	P. O. BOX 27	ST. MARYS	WV	26170	WEEKLY-SATURDAY
POINT PLEASANT REGISTER	200 MAIN STREET	POINT PLEASANT	WV	25550	DAILY
PRESTON COUNTY JOURNAL	P. O. BOX 587	RINGWOOD	WV	26537	WEEKLY-MONDAY & THURSDAY
PRESTON COUNTY NEWS	BOX 225, 226 WASHINGTON AVE	TERRA ALTA	WV	26764	WEEKLY-THURSDAY
PRINCETON TIMES	P.O. BOX 1199	PRINCETON	WV	24740	WEEKLY-THURSDAY
REGISTER HERALD/POST REPORT	107 NORTH LAFAYETTE STREET	LEWISBURG	WV	24901	WEEKLY-WEDNESDAY
RICHWOOD NEWS-LEADER	P. O. BOX 591	RICHWOOD	WV	26261	WEEKLY-WEDNESDAY
ROANE COUNTY REPORTER	P. O. BOX 647	SPENCER	WV	25276	WEEKLY-THURSDAY
SPIRIT OF JEFFERSON ADVOCATE	P. O. BOX 966	CHARLES TOWN	WV	25414	WEEKLY-THURSDAY
ST. MARYS ORACLE	P. O. BOX 27	ST. MARYS	WV	26170	WEEKLY-WEDNESDAY
THE BROOKE NEWS	P. O. BOX 591	WELLSBURG	WV	26070	WEEKLY-THURSDAY

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP CODE	REMARKS
THE CALHOUN CHRONICLE	P. O. BOX 400	GRANTSVILLE	WV	26147	WEEKLY-THURSDAY
THE CARBIDER	BOX 8361	SOUTH CHARLESTON	WV	25303	
THE CATHOLIC SPIRIT	P. O. BOX 951	WHEELING	WV	26003	WEEKLY-FRIDAY
THE CLAY HERALD	RT. 4, BOX 5	CLAY	WV	25043	WEEKLY-MONDAY
THE POLLANSBEE REVIEW	P. O. BOX 591	WELLSBURG	WV	26070	WEEKLY-THURSDAY
THE GLENVILLE DEMOCRAT	P. O. BOX 430	GLENVILLE	WV	26351	WEEKLY-THURSDAY
THE GLENVILLE PATHFINDER	206 EAST MAIN STREET	GLENVILLE	WV	26351	WEEKLY-THURSDAY
THE HERALD DISPATCH	946 5TH AVENUE	HUNTINGTON	WV	25720	DAILY, SUNDAY
THE INTELLIGENCER	15TH/MAIN STREETS	WHEELING	WV	26003	DAILY
THE INTER-MOUNTAIN	P. O. BOX 1339	ELKINS	WV	26241	DAILY
THE JACKSON HERALD	P.O. BOX 31/117 COURT ST.	RIPLEY	WV	25271	WEEKLY-WEDNESDAY
THE JACKSON STAR NEWS	P. O. BOX 10	RAVENSWOOD	WV	26241	WEEKLY-WED & SAT
THE JACKSON STAR NEWS	BOX 10, RACE STREET	RAVENSWOOD	WV	26164	WEEKLY-WED. & SATURDAY
THE LINCOLN JOURNAL	BOX 308, 337 WALNUT ST.	HAMLIN	WV	25523	WEEKLY-WEDNESDAY
THE LOGAN BANNER	BOX 720, 435 STRATTON ST.	LOGAN	WV	25601	DAILY, SUNDAY
THE MONROE WATCHMAN	P. O. BOX 179	UNION	WV	24983	WEEKLY-THURSDAY
THE MONTGOMERY HERALD	406 LEE STREET	MONTGOMERY	WV	25136	WEEKLY-WEDNESDAY
THE MOOREFIELD EXAMINER	132 SOUTH MAIN ST.	MOOREFIELD	WV	26836	WEEKLY-WEDNESDAY
THE MORGAN MESSENGER	P. O. BOX 567	BERKELEY SPRINGS	WV	25411	W-WED.
THE MORNING/SUNDAY JOURNAL	207 WEST KING STREET	MARTINSBURG	WV	25401	DAILY
THE MULLEN ADVOCATE	BOX 907	MULLENS	WV	25882	WEEKLY-THURSDAY
THE NEWS LEADER	BOX 591	RICHWOOD	WV	26261	WEEKLY-WEDNESDAY
THE NICHOLAS CHRONICLE	BOX 503, WEBSTER ROAD	SUMMERSVILLE	WV	26651	WEEKLY-THURSDAY
THE PENDLETON TIMES	P. O. BOX 906	FRANKLIN	WV	26807	WEEKLY-THURSDAY
THE PIEDMONT HERALD	33 EAST FAIRVIEW ST.	PIEDMONT	WV	26750	WEEKLY-TUESDAY
THE POCAHONTAS TIMES	P. O. BOX 117, 810 SECOND AVE	MARLINTON	WV	24954	WEEKLY-THURSDAY
THE PUTNAM DEMOCRAT	P. O. BOX 179	WINFIELD	WV	25213	WEEKLY-THURSDAY
THE RITCHIE GAZETTE	BOX 215, 112-116 E. MAIN ST.	HARRISVILLE	WV	26362	WEEKLY-THURSDAY
THE SHINNSTON NEWS	P. O. BOX 7	SHINNSTON	WV	26431	WEEKLY-WEDNESDAY
THE WEBSTER ECHO	P. O. BOX 749	WEBSTER SPRINGS	WV	26288	WEEKLY-WEDNESDAY
THE WEBSTER REPUBLICAN	BACK FORK STREET	WEBSTER SPRINGS	WV	26288	WEEKLY-WEDNESDAY
THE WEEKLY NEWS SENTINEL	BOX 308, 337 WALNUT ST.	HAMLIN	WV	25523	WEEKLY-WEDNESDAY
TIMES-RECORD	P. O. BOX 674	SPENCER	WV	25276	WEEKLY-THURSDAY
TIMES-WEST VIRGINIAN	P. O. BOX 2530	FAIRMONT	WV	26554	DAILY-SUNDAY
TYLER STAR NEWS/CITY JOURNAL	BOX 191, DIAMOND STREET	SISTERSVILLE	WV	26175	WEEKLY-WEDNESDAY
WADC-AM/WMGP-FM	703 MARKET STREET	PARKERSBURG	WV	26101	
WABY-AM/FM	BOX 5588	PRINCETON	WV	24740	
WABZ-FM	P. O. BOX 2324	HUNTINGTON	WV	25723	
WAJR-AM/WVAZ-FM	GREER BLDG. RT. 7	MORGANTOWN	WV	26505	
WAMX-FM	P. O. BOX 1150	HUNTINGTON	WV	25713	
WAYNE COUNTY NEWS	310 CENTRAL AVENUE	WAYNE	WV	25570	WEEKLY-THURSDAY
WBOY-TV	912 W. PIKE ST.	CLARKSBURG	WV	26302	
WBTH-AM/WXCC-FM	5 1/2 E. SECOND AVE.	WILLIAMSON	WV	25661	
WBUC-AM/WBTQ-FM	P. O. DRAWER C	BUCKHANNON	WV	26201	
WCAW-AM/V100-FM	P.O. BOX 4318	CHARLESTON	WV	25364	

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP	REMARKS
WCEF-FM	BOX 798	RIPLEY	WV	25271	
WCBS-AM/WBES-FM	1111 VIRGINIA ST. E.	CHARLESTON	WV	25301	
WCBS-TV	1301 PIEDMONT	CHARLESTON	WV	25301	
WCLG-AM/FM	BOX 885	MORGANTOWN	WV	26505	
WCST-AM/FM	P. O. BOX 10	BERKELEY SPRINGS	WV	25411	
WCWV-FM	713 MAIN ST.	SUMMERSVILLE	WV	26651	
WDNE-AM/WVHT-FM	WASHINGTON & DAVIS STS.	ELKINS	WV	26241	
WDTV	PO BOX 480 FIVE TV DRIVE	BRIDGEPORT	WV	26330	
WEIR-AM	3578 PENNSYLVANIA AVENUE	WEIRTON	WV	26062	
WEIRTON DAILY TIMES	114 LEE AVENUE	WEIRTON	WV	26062	DAILY
WELC-AM	BOX 949	WELCH	WV	24801	
WELCH DAILY NEWS	125 WYOMING ST.	WELCH	WV	24801	DAILY
WELD-AM/FM	KRSSEL ROAD	FISHER	WV	26818	
WELK-FM	228 RANDOLPH AVENUE	ELKINS	WV	26241	
WEMM-FM	703 THIRD AVENUE	HUNTINGTON	WV	25701	
WEPM-AM/WKMZ-FM	P.O. BOX 767	MARTINSBURG	WV	25401	
WEST VIRGINIA BEACON DIGEST	P. O. BOX 901	SOUTH CHARLESTON	WV	25324	WEEKLY-FRIDAY
WEST VIRGINIA DAILY NEWS	P. O. BOX 471, 200 S. COURT ST	LEWISBURG	WV	24901	DAILY
WEST VIRGINIA HILLBILLY	P. O. BOX 591	RICHWOOD	WV	26261	WEEKLY-THURSDAY
WESTON DEMOCRAT	P.O. BOX 968	WESTON	WV	26452	WEEKLY-WEDNESDAY
WETZ-AM	P. O. BOX 249	NEW MARTINSVILLE	WV	26155	
WETZEL CHRONICLE	P.O. BOX 289, 1100 3RD ST.	NEW MARTINSVILLE	WV	26155	WEEKLY-WEDNESDAY
WEYS-FM	#1 BRUCE STREET	INSTITUTE	WV	25112	
WFGH-FM	BROADCAST BLDG. COURT ST.	FORT GAY	WV	25514	
WFGM-FM	1101 FAIRMONT AVENUE	FAIRMONT	WV	26554	
WFSP-AM	P. O. BOX 567	KINGWOOD	WV	26537	
WGNT-AM	P. O. BOX 1150	HUNTINGTON	WV	25713	
WEAR-AM/WVEF-FM	350 W. MAIN STREET	CLARRSBURG	WV	26301	
WEAW-AM/WSSN-FM	P. O. BOX 980	WESTON	WV	26452	
WHEELING NEWS-REGISTER	15TH/MAIN STREETS	WHEELING	WV	26003	DAILY, SUNDAY
WEIS-AM/WBAJ-FM	RADIO CTR/900 BLUEFIELD	BLUEFIELD	WV	24701	
WEJC-AM	BOX 68	MATEWAN	WV	25678	
WHLX-FM	P.O.BOX 6462	WHEELING	WV	26003	
WILLIAMSON DAILY NEWS	100 EAST 3RD AVENUE	WILLIAMSON	WV	25661	DAILY
WIRT COUNTY JOURNAL	BOX 309	ELIZABETH	WV	26143	WEEKLY-WEDNESDAY
WJLS-AM/WBKW-FM	P. O. BOX 1452	BECKLEY	WV	25802	
WKAZ-AM/WKLC-FM	100 KANAWHA TERRACE	ST. ALBANS	WV	25177	
WKCU-FM	P. O. BOX 306	LEWISBURG	WV	24901	
WKEZ-AM/FM	P.O. BOX 2288	HUNTINGTON	WV	25701	
WKGI-FM	P. O. BOX 267	NEW MARTINSVILLE	WV	26155	
WKKM-FM	P. O. BOX 1546	CLARKSBURG	WV	26301	
WKLP-AM/WQZK-FM	DRAWER F	KEYSER	WV	26726	
WKMM-FM	P. O. BOX 967	KINGWOOD	WV	26537	
WKOY-AM	623 COMMERCE	BLUEFIELD	WV	24701	
WKWK-AM/WEEL-FM	P. O. BOX 2258	WHEELING	WV	26003	

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP	REMARKS
WKYG-AM/WKXX-FM	1715/1717 ST.MARYS AVE.	PARKERSBURG	WV	26102	
WLOG-AM	BOX 1800	LOGAN	WV	25601	
WLTP-AM/WNUS-FM	BOX 428	BELPRE	OH	45714	
WLYJ-TV	PO BOX 2544/775 W. PIKE	CLARKSBURG	WV	26302	
WMMN-AM	P. O. BOX 1746	CHARLESTON,	WV	25326	
WMON-AM	BOX 750	MONTGOMERY	WV	25136	
WMOV-AM	GIBBS STREET	RAVENSWOOD	WV	26164	
WMTD-AM/FM	P.O. BOX 850	HINTON	WV	25951	
WMUL-FM	COMM. BLDG.MARSHALL UNIV.	HUNTINGTON	WV	25701	
WNST-AM	P. O. BOX 266	MILTON	WV	25541	
WOAY-AM/FM	P. O. BOX 251	OAK HILL	WV	25901	
WOAY-TV	P. O. BOX 251	OAK HILL	WV	25901	
WOWK-TV	P. O. BOX 13	HUNTINGTON	WV	25706	
WPDX-AM/FM	BOX 1920	CLARKSBURG	WV	26301	
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WROH-AM/FM	276 SENECA TRAIL NORTH	RONCEVERTE	WV	24970	
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WSCW-AM/WJTP-FM	605 D ST./PO BOX 8718	SO. CHARLESTON	WV	25303	
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WVHR-AM		DUNMORE	WV	24934	
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WZMM-AM/FM	98 16TH STREET	WHEELING	WV	26003	

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WV Society of Professional Engineers
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Dale L. Clayton, President
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Fairmont, WV 26554

John Beaty, President
WV Firemen's Association
120 E. Robinson Street
Paden City, WV 26159

Paul Bragg, President
WV Professional Fire Chief's Assoc.
105 Julianna Street
Beckley, WV 25801

Charles R. Sargent, President
WV Code Officials Association
454 Blake Road
Nitro, WV 25143

WEST VIRGINIA STATE FIRE COMMISSION

IN RE: Public Hearing on Proposed Revision Of The
West Virginia State Building Code

TRANSCRIPT OF PROCEEDINGS had and/or
testimony adduced in the hearing held before the West
Virginia State Fire Commission in Room 215, East Wing of
the West Virginia State Capitol, Washington Street, East,
Charleston, Kanawha County, West Virginia, on the 23rd day
of June, 1974, commencing at 10:15 a.m.

BEFORE: BILL SPENCER, Chairman
JIM FIFE, Commissioner
FRANCIS GUFFEY, Commissioner
JOHN BEATY, Commissioner
WALTER SMITTLE, State Fire Marshal
DARL CROSS, Chief Deputy Fire Marshal

DONNA KAY MILLER
Certified Court Reporter
7724 Sissonville Drive
Sissonville, West Virginia 25320
(304) 988-9581

I N D E X

<u>Exhibits</u>	<u>Marked</u>	<u>Received</u>
Spellman No. 1, Memo Dated 6-23-94	14	14
Thomasson No. 2, Comments Dated 6-23-94	16	16

P R O C E E D I N G S

(9:15 A.M.)

MR. SPENCER: Good morning and welcome.

My name is Bill Spencer. I am chairman of the West Virginia State Fire Commission.

I will preside over the public hearing regarding the revisions of the State Fire Code and the State Building Code.

At any time if you can't hear, just put your hand up back there. This hearing is pursuant to the West Virginia Administrative Procedure Act. The public hearing is being conducted for the purpose of receiving public comments.

Your comments will be considered by the State Fire Commission and acted upon appropriately pertaining to the Fire Code and the State Building Code.

The public hearing is being recorded by Donna Kay Miller. She is a Certified Court Reporter. Her proceedings will be presented to the Commission.

At this time I would like to introduce other members of the State Fire Commission, Mr. John Beaty seated here, Jim Fife, and Mr. Francis Guffey.

We also have from the Fire Marshal's

staff Walter Smittle, State Fire Marshal, Darl Cross, Chief Deputy Fire Marshal.

Prior to this hearing you were asked to sign the register. Has everyone signed and everyone checked that wants to speak?

All right, these proceedings are here for the adoption of the latest edition of the BOCA, Building Officials and Code Administrators.

The 1994 edition of the code is part of the State Building Code and these codes consist of the BOCA National Building Code, Twelfth Edition, 1993, the BOCA National Plumbers Code, Ninth Edition, 1993, BOCA National Mechanical Code, Eighth Edition, 1993, BOCA National Property Maintenance Code, Fourth Edition, 1993, the BOCA Energy Conservation Code, Seventh Edition, 1993, CABO One- and Two-Family Dwelling Code, 1993.

All right, at this time we will go down-- we didn't check whether you want to speak on the Building Code or the Fire Code or both. So we will go down the procedure as we have them here. If you only want to speak on one, we are going to do the Building Code first.

The first name we have is Francis Guffey. Do you wish to speak on the Building Code or the Fire Code

or both of them?

MR. GUFFEY: The Building Code primarily and the CABQ Code specifically.

MR. SPENCER: Okay, sir, if you would go to the podium -- if you will come around, please to the podium, give your name and identify yourself.

MR. GUFFEY: If anybody needs to reference any of the Codes, they are here (indicating).

Mr. Spencer, do I speak this way or that way?

MR. SPENCER: This way. Speak in so she can pick it up.

MR. GUFFEY: I am sorry to have my back to you-all. I am going to speak specifically to the --

MR. SPENCER: Sir, will you give your --

MR. GUFFEY: I am Francis Guffey, FAIA, Registered Architect.

MR. SPENCER: Representing, please?

MR. GUFFEY: American Institute of Architects, West Virginia Code Officials, State Fire Commission. Is that legal?

MR. SPENCER: No. I would take exception that you are not speaking for the State Fire Commission at

this time.

MR. GUFFEY: All right, I will take that hat off.

MR. SPENCER: You may proceed.

MR. GUFFEY: Back in 1991 Hurricane Andrew paid a visit to Dade County, Florida. Shortly thereafter I visited Homestead, Florida where the worst of the hurricane hit with a group of architects to investigate the devastation, and there was massive devastation. We are still reading about it.

It was discovered that the difference between a house that stayed on its foundations and was repairable and one that blew into the Gulf of Mexico was \$300 in building materials.

Working with the Miami School of Architecture and the Miami Chapter of the American Institute of Architects very quickly the technical information manual was put together to assist the homeowners in their rebuilding efforts in the building of their replacement homes.

Dade County learned their lesson. Codes were rewritten from their present lax conditions. Code officials are under indictment for compliant construction

inspection, and architects and engineers are now required for all structural reconstruction in these constructions.

It is the Building Codes that saved a lot of these houses. Thank you.

MR. SPENCER: Thank you. James C. Moon, you had a question.

MR. MOON: I pass. I would like to reserve the right if I want to speak. I pass at this time.

MR. SPENCER: Simon.

MR. SIMON: My name is Sean G. Simon. I am representing Jerry Goff Architecture. I would like to speak on behalf of both that you want to adopt.

I believe you should adopt the current codes. I have worked ten years as a volunteer fire fighter, and so I have seen both sides of inadequate codes, not only in the design but in the aftermath, and a lot of times we design by a newer code and then we have problems with definitions that are not covered in the older code, and I just would like to see you adopt the new ones.

MR. SPENCER: You are speaking in reference to the building code?

MR. SIMON: And the life safety.

MR. SPENCER: And the fire code?

MR. SIMON: Right.

MR. SPENCER: Greg Williamson.

MR. WILLIAMSON: Good morning. My name is Greg Williamson. I am architect with Gandee and Partners and representing as President, the West Virginia Society of Architects, and I am speaking primarily with regard to the statewide enactment of BOCA as the statewide building code.

In the United States we view -- the citizens view the primary function of government as promoting the health and the safety and welfare for the citizens in all facets of life.

Many citizens, however, in many states, including West Virginia, live, work, shop, and engage in other activities in building which do not necessarily reflect the definition of safety that has been described in any building code or life safety code.

The West Virginia Society of Architects strongly supports the enactment of a statewide minimum standard for building construction. In fact, many, if not all, or at least most of the architects in the State of

West Virginia are voluntarily complying with the most current BOCA standards in addition to the NFPA standards that are currently enforced.

The West Virginia Society of Architects feels that this offers the owners of these buildings the assurance that the most current safety technology available has been incorporated towards the goal of protecting the occupants of these buildings to the greatest degree possible.

To the fire departments, to those who would service these buildings in the event of a fire, this offers consistency and predictability in the event of a fire or other catastrophe that would affect these buildings.

To the State Fire Commission and the higher levels of state government, this provides a confirmation of the level of concern that you as an agency have for the safety of the citizens of West Virginia.

Again, the West Virginia Society of Architects strongly supports the adoption of BOCA as the statewide building code. Thank you.

MR. SPENCER: Thank you. Bowling.

MR. BOWLING: Pass.

MR. SPENCER: Stricker.

MR. STRICKER: Pass.

MR. SPENCER: Ralph Williams.

MR. WILLIAMS: My name is Ralph D.

Williams. I am a professional lobbyist, and I am authorized to represent the West Virginia Society of Professional Engineers and the West Virginia Association of Consulting Engineers and the West Virginia Society of Architects.

We recommend -- those three organizations recommend the adoption of the current '93 edition of the BOCA Code for West Virginia.

I am also a professional insurance agent, and as Francis has indicated, had Florida had adequate codes and enforced them, the insurance industry would have been a hell of a lot better off today and the citizens in Florida would be too.

Therefore, it is incumbent on West Virginia to bring their codes in line. We may have a natural disaster of our own someday and regret very much not having the codes.

State Farm Insurance Company also represents efforts to pass the National Disaster Relief

Act, and we would certainly solicit West Virginians involvement in trying to have Congress enact that. Thank you.

MR. SPENCER: Thank you. Ted Zachwieja. Is that even close? I am sorry.

MR. ZACHWIEJA: That is close enough. I am Ted Zachwieja with the HEC, Incorporation, consulting engineers in the private sector.

We strongly recommend the adoption of the Code, but what I do have a question is -- it might be an inappropriate question at this time, is that how can the private sector of the architects and engineers and organizations have the legislature to pass a law to adopt current codes that are automatically renewed?

West Virginia adopts a code and then they keep them for five or ten years and it becomes outdated and it becomes a big problem in the design process.

For instance, the hospitals, the hospital engineers of the state, they have to go by the JCAH and the JCAH adopts all current codes, which is in conflict of the West Virginia Code, and I feel that there should be some adoption of those codes as they come out.

MR. SPENCER: Thank you. Mr. Smittle

will respond to that.

MR. SMITTLE: Walter Smittle, State Fire Marshal. Sir, your question is not new to the State Fire Commission. In fact, it has been researched by the Attorney General's Office that what would be required would be to go back into the Administrative Procedures Act, Chapter 29 (a) of the West Virginia Code, and have that Code amended, which would authorize the adoption of the most recent edition.

So legislation would have to be passed by the Legislature amending that section of the Code authorizing the State Fire Commission to adopt the most latest edition of the Code when they are made available by the organizations.

So that question is not new. It has been researched, but until that particular law is changed, the Fire Commission must adhere to the Administrative Procedures Act and adopt them and go through the legislative process with the rule-making review committee.
Okay?

MR. ZACHWIEJA: Okay.

MR. SPENCER: Thank you, sir. Randy Spellman.

MR. SPELLMAN: Good morning. My name is Randy Spellman. I am representing both the City of Bridgeport and also serving as Vice President of the West Virginia Code Officials Association, and we are in full support of the adoption of the 1993 Building Codes, and I would like to make one correction.

I think the CABO, the actual adopting year would be 1992 of the CABO edition and not the '93. Just for a matter of record, I think that should be clarified.

One item I would like to discuss briefly -- and I do have some handouts for the Commissioners -- there is some field concerns at times as the Code officials across the State of West Virginia and the Fire Marshal's Office attempt to work in partnership toward the safety of the citizens and residents of West Virginia and also the safety of the structures being built.

There comes times in the field where there is conflict over who has the total authority. I do have some handouts I would like to enter into the record. I would like the Commission to review the Title 87 Legislative Rules that states that the State Fire Code

takes precedence whenever there is a conflict and also references you over to Section 29-3-5b of the State Code that references whenever any state law, county or municipal ordinance or regulation is more stringent, then that should prevail.

This is something that just needs to be worked out in partnership so that we can go toward a common goal of total, unified safety throughout the State of West Virginia.

I would like to enter these in -- offer a set of these to be entered into the official record, and I also have copies for the Commissioners.

MR. SPENCER: Okay, thank you.

(WHEREUPON, the document referred to was marked for identification as Spellman Exhibit No. 1 and was received in evidence.)

MR. SPENCER: For the record, we acknowledge that we did receive the document from Mr. Spellman and marked it Exhibit 1. Beth Thomasson.

MS. THOMASSON: To keep me on track, I will just read what I drafted for this. My name is Beth

Thomasson and I represent -- I appreciate the opportunity that I have this morning to speak on behalf of the West Virginia Home Builders Association.

We support the concept of the adoption of the latest published edition of the BOCA Building Codes and the CABO Code for one and two single family dwellings as outlined in the proposed rule that was filed with the Secretary of State on May 13th.

Our Board of Directors has discussed this issue for a number of months, and even during the last legislative session attempted to gain support of our desire to amend the statute -- Mr. Smittle has already spoken of this -- to reflect that the state building code would always be the latest adopted version.

Each door that we opened, we were told that it couldn't be done in this manner, but no one could show us a specific code reference indicating this.

Finally, at our request the Fire Marshal requested an opinion of this concept from the Office of the Attorney General and his office verified that what we had been hearing was indeed true.

Based on this anticipated conclusion, our Board of Directors voted to support any filing of the

rules by the State Fire Commission to adopt the latest published versions of our state adopted codes. We do so for the following reasons:

State inspectors use the newest version when they inspect the homes that West Virginia builders construct. It is a definite handicap for a builder to be working under the '89/'90 edition when the inspector is using the '92/'93 edition.

Also, in most cases, any changes in building codes from one edition to the next is an improvement and promotes better building practices and safety for the West Virginia citizens.

Members of our Association pledge their support to lobby the legislature for the passage of these proposed rules and to be whatever help that we can, and I will give this to you.

MR. SPENCER: Thank you. Note in the record that those have been presented by her as Exhibit 2, please.

(WHEREUPON, the document referred to was marked for identification as Thomasson Exhibit No. 2 and was received in evidence.)

MR. SPENCER: Is there anyone else that wishes to speak?

MR. WESTFALL: Thank you, Mr. Chairman. My name is Michael M. Westfall, representing BOCA International from their Mideast Regional Office in Columbus, Ohio.

I have been on the staff of BOCA now for three months. It has been a pleasure for me and a privilege, I believe to be making my sixth trip to West Virginia within the three months.

I am very pleased to say that in my opinion West Virginia is taking a leadership role in this section of the country regarding the use and adoption of up-to-date current model codes.

I mainly would like to say me too to all the previous speakers, as well as add a postscript to the excellent point made by Mr. Guffey.

As the result of Hurricane Andrew, the floods in the midwest over the last couple of years and earthquakes in the west, the insurance industry of the United States is currently undertaking a study of building code departments.

In essence, the same as they look at

communities regarding their effectiveness in fire fighting, fire prevention, regulation of flood plains regulations, they are now looking at building departments because of exactly what Mr. Guffey said, their findings after Hurricane Andrew being primarily the reason.

They believe that through the use and adoption of up-to-date model building codes that are administered and enforced fairly and thoroughly, they will realize over time a savings in insurance losses.

It is a preliminary study. As I mentioned, their initial news releases indicated that they will be grading every community in the United States before the year 2000, with the major communities and the major natural disaster prone areas being graded by the end of 1995.

For this reason, we feel it is very important that the latest edition of the model codes, any model code, hopefully will be put into ordinance by local communities and that the building departments will be well staffed, well trained to enforce them.

Again, we commend your work. We are here to support you any time we can.

MR. SPENCER: Thank you very much. All

right, is there anyone else that would desire to speak before we close the hearing on the Building Code?

MR. MILLER: My name is Lloyd Miller. I am with N Visions Architects in South Charleston, West Virginia, and I am speaking today for adopting both codes in their current form and edition.

Speaking as an individual architect, I run across situations practically every day where we are entitled to interpret codes and apply them to specific projects.

By our registration laws we are required to look after the welfare and the safety of the public, in particular the owners we are dealing with. A lot of times there are conflicts that arise in the current editions along with the editions that are currently in effect as far as the state law goes.

It makes it difficult on our part to really address the owners needs and the welfare of the public in an intelligent fashion when those conflicts come up.

We normally take the most aggressive interpretation of that; however, the owner sometimes disputes that as far as the cost goes.

But in general, if we are looking at the general welfare of the public and providing the welfare and the safety in our designs that we are entitled to do, it makes our job a lot easier and also makes our project a lot safer if we have some consistency in the codes that affect the state.

MR. SPENCER: Thank you. Is there anyone else desiring to speak on the building codes? If not, we will close the public hearing on the Building Code at this time.

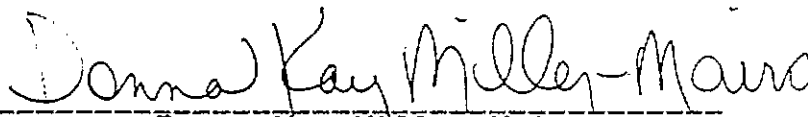
(WHEREUPON, at 10:40 a.m., the public hearing was adjourned.)

REPORTER'S CERTIFICATE

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

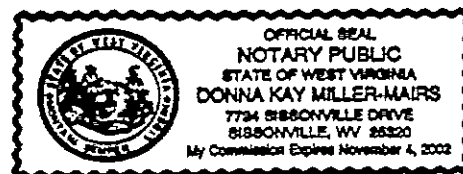
I, Donna Kay Miller-Mairs, do hereby
certify that the foregoing is, to the best of my skill and
ability, a true and accurate transcript of all the testimony
adduced or proceedings had as set forth in the caption
hereof.

Given under my hand this 29th day of
June, 1994.



Donna Kay Miller-Mairs
Certified Court Reporter

My Commission expires November 4, 2002.



Comments Before The
State Fire Commission
concerning

State Building Code

June 23, 1994

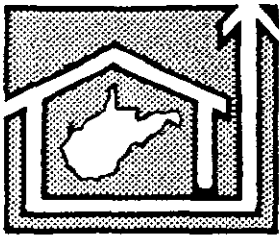
State Capitol Complex
East Wing, Room E-215
Charleston, WV

These comments submitted
behalf of

Home Builders Association of WV
700 Virginia Street, West
P.O. Box 6250
Charleston, WV 25362-0250

(304) 342-5176

*Thomasson
EX. No. 2
6-23-94 dkn*



Home Builders Association of West Virginia

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Gerald D. Workman

National Representative
Sandra J. Dunn

National Director
John Leslie

Associate Member Director
Wayne Pugh

General Counsel
William F. Richmond, Jr.

My name is Beth Thomasson and I appreciate the opportunity that I have this morning to speak on behalf of the West Virginia Home Builders Association.

We support the concept of adoption of the latest published edition of the BOCA Building Codes and the CABO Code for one and two single family dwellings as outlined in the proposed rule that was filed with the Secretary of State's Office on May 13th.

Our Board of Directors has discussed this issue for a number of months and, even during the last legislative session, attempted to gain support of our desire to amend the statute to reflect that the state building code would always be the "latest adopted version". Each door that we opened we were told that it couldn't be done in this manner .. but no one could show us a specific code reference indicating that it could not be done. Finally, at our request, the Fire Marshal requested an opinion of this concept from the office of the Attorney General and his office verified what we had been hearing.

Based on this anticipated conclusion, our Board of Directors voted to support any filing of rules by the State Fire Commission to adopt the latest published versions of our state adopted codes. We do so for the following reasons ..

- * state inspectors use the newest version when they inspect the homes that West Virginia builders construct. It is a definite handicap for a builder to be working under a 1989/1990 edition when the inspector is using the 1992/1993 edition
- * in most all cases, any changes in building codes (from one edition to the next) is an improvement and promotes better building practices and safety for West Virginia citizens

Members of our Association pledge their support to lobby the legislature for the passage of these proposed rules and to be whatever help that we can.



TO: Fire Commission
FROM: West Virginia Code Officials Association
DATE: June 23, 1994
SUBJ: Adoption of 1993 BOCA Codes

The West Virginia Code Officials Association wishes to express support for the adoption of the 1993 BOCA Code without amendment. In addition, we respectfully request that the Fire Commission consider the following points in the promulgation of the Administrative Rules.

- 1) Attached find copies of the WV State Code 29-3-5b and the Fire Commission's current Administrative Rules (Title 87, April 3, 1991). Note the difference in wording regarding conflicts between the Fire Code and Building Code. The wording of the Administrative Rules may, and has been, misconstrued to set aside requirements of the Building Code. Obviously, this is not the intent of 29-3-5b(c) which states in part "whenever any other state law, county or municipal ordinance or regulation of any agency thereof is more stringent or imposes a higher standard than is required by the State Fire Code, the provisions of such state law, county or municipal ordinance or regulation of any agency thereof shall govern...". The wording of Title 87-4-3, 3.1 is clearly in conflict with WV State Code as quoted above.

Fire prevention is an important part of the Building Code. There is not and cannot be a significant conflict between the National Fire Codes and the Building Code since both are based on the same standards and studies. Not only are the Fire Protection requirements of the Building Code more stringent in some cases, the greater part of the Building Code deals with matters not covered at all in the Fire Code. The Fire Code, therefore, cannot be substituted for the Building Code in any occupancy. In occupancies where special requirements are imposed by the Fire Code, these should be in addition to, but never instead of, the requirements of the Building Code.

- 2) A situation similar to item 1) above exists with respect to the State Plumbing Code and the Rules of the WV State Board of Health which are significantly less comprehensive. (See Title 87, Section 87-4-3, 3.2).
- 3) If Section 87-4-4, 4.1.1 of the Administrative Rules was intended to exempt small residential accessory structures from the requirement for building permits, the wording should so state. The provision that such structures "shall not be subject to inspection by local jurisdictions" may affect the enforcement of Property Maintenance and Zoning Codes in a manner not anticipated.

Spellman
Ex. No. 1
6-23-94 dlm

During the course of adoption of the 1993 BOCA Codes, WVCOA urges modification of the Administrative Rules to address these issues. These changes would facilitate more effective enforcement of both the Fire and Building Codes throughout the State and promote a better working relationship between Building Officials and State Fire Marshals.

TITLE 87
LEGISLATIVE RULES
STATE FIRE COMMISSION
SERIES 4
STATE BUILDING CODE

87-4-1 GENERAL

1.1 Scope: These rules and regulations establish the rules and regulations considered necessary by the State Fire Commission for the safeguarding of life and property and to ensure the quality of construction of all structures erected or renovated throughout this state.

1.2 Authority: West Virginia State Code 29-3-5b.

1.3 Filing Date: April 3, 1991

1.4 Effective Date: April 3, 1991

1.5 Incorporation of other Documents: This rule does not include a reprinting of all the requirements imposed by statute or by the incorporation of various nationally recognized standards and codes cited in Section 4.1 of these rules and regulations. For ascertaining these additional standards and requirements, it is necessary to make reference to the other documents.

87-4-2 DEFINITIONS

2.1 Building code, includes all aspects of safe building construction and mechanical operations and all safety aspects related thereto.

2.2 Fire marshal, means the West Virginia State Fire Marshal and/or his designated representatives.

2.3 Fire Commission, means the eleven (11) appointed members of the West Virginia State Fire Commission.

2.4 Local jurisdiction, means municipal or county level government.

2.5 State Building Code, means the entire contents of this rule and the referenced national codes.

2.6 BOCA refers to the "Building Officials & Code Administrators International", 4051 Flossmoor Road, Country Club Hills, Illinois, 60477-5795.

2.7 CABO refers to the "Council of American Building Officials", 5203 Leesburg Pike, Suite 708, Falls Church, Virginia, 22041.

87-4-3 CONFLICTS

3.1 Whenever there arises a conflict between the "state fire code" and the "state building code", the "state fire code" shall take precedence.

3.2 Whenever there arises a conflict between the BOCA National Plumbing Code section of the "state building code" and the rules of the West Virginia State Board of Health, the rules of the Board of Health shall take precedence.

3.3 Whenever there arises a conflict between the "state building code" and statutory laws of the State of West Virginia, the West Virginia State Code shall take precedence.

87-4-4 NATIONAL STANDARDS AND CODES

4.1 The standards and requirements as set out and as published by the Building Officials & Code Administrators International and the Council of American Building Officials, as listed below, shall have the same force and effect as if set out verbatim in this rule:

The BOCA National Building Code,
Eleventh Edition, 1990

The BOCA National Plumbing Code,
Eighth Edition, 1990

The BOCA National Mechanical Code,
Seventh Edition, 1990

The BOCA National Property Maintenance Code,
Third Edition, 1990
However, Section PM-104.4 "Right of Entry" may
be adopted or rejected at the option of the
local jurisdiction.

The BOCA National Energy Conservation Code
Sixth Edition, 1990

The CABO One- and Two-Family Dwelling Code
1989 Edition

4.1.1. The following structures shall not be subject to inspection by local jurisdictions:

4.1.1.a Group U utility structures and storage sheds comprising an area not more than 150 sq. ft. which have no plumbing or electrical connections and are utilized only for residential storage purposes. (Examples include storage sheds that are for the residential storage of lawnmowers, tools, bicycles or furniture.) Not included are those utility structures and storage sheds which have plumbing or electrical connections or are used for the storage of explosive or other hazardous or explosive materials.

4.2 A copy of the codes listed in Section 4.1 of this rule have been filed with the Secretary of State. These code books, collectively or separately, may be obtained by contacting the Building Officials & Code Administrators International, 4051 West Flossmoor Road, Country Club Hills, Illinois 60477-5795, telephone 708/799-2300; OR BOCA International Regional Offices, 3592 Corporate Drive, Suite 107, Columbus, Ohio 43231, telephone 614/890-1064.

87-4-5 ADOPTION BY LOCAL JURISDICTION

5.1 Each local jurisdiction adopting the State Building Code shall notify the State Fire Commission in writing. A copy of the ordinance or order shall be sent to the State Fire Administrator, West Virginia State Fire Commission, State Capitol Building, Room EB-64, Charleston, West Virginia 25305, within thirty (30) days of the adoption.

5.2 Each local jurisdiction which adopts the State Building Code shall have responsibility for the enforcement of the building code as provided in West Virginia Code 7-1-3n and 8-12-13.

5.3 Throughout the national codes, as adopted in Section 4.1 of this rule, there are discretionary provisions which require further action by the adopting local jurisdiction in order to adapt these codes to various local conditions. It is therefore the intent of these rules to further authorize each local jurisdiction to further complete, by order or ordinance, those respective areas which are indicated to be completed by the adopting "jurisdiction".

5.4 Within the penalty sections of each of the national codes, as adopted in Section 4.1 of this rule, there is a penalty for imprisonment. The provision of imprisonment for any violation of these rules is to be considered optional with each adopting local jurisdiction.

5.5 Each of the national codes, as adopted in Section 4.1 of this rule, provides for a separate appeals board, however; the intent and requirements for an appeal board may be met with the creation by the local jurisdiction of a single appeals board for the entire "State Building Code."

87-4-6 EXISTING BUILDING CODES

6.1 All building codes which have been adopted by local jurisdictions prior to the passage of West Virginia Code 29-3-5b, shall be null and void one year following the effective date of the State Building Code of April 28, 1989.

87-4-7 SEVERABILITY

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

§ 29-3-5b. Promulgation of rules, regulations and state-wide building code.

(a) The state fire commission shall promulgate and repeal rules and regulations to safeguard life and property and to ensure the quality of construction of all structures erected or renovated throughout this state pursuant to the provisions of chapter twenty-nine-a [§ 29A-1-1 et seq.] of this code through the adoption of a state building code. Such rules, regulations, amendments or repeals thereof shall be in accordance with standard safe practices so embodied in widely recognized standards of good practice for building construction and all aspects related thereto and shall have force and effect in those counties and municipalities adopting the state building code.

(b) Pursuant to the provisions of chapter twenty-nine-a of this code, on the first day of July, one thousand nine hundred eighty-eight, the state fire commission shall commence promulgation of comprehensive rules and regulations regarding building construction, renovation and all other aspects as related to the construction and mechanical operations of a structure. Upon the completion of the promulgation of the rules and regulations, such rules and regulations shall be known as the "State Building Code."

(c) For the purpose of this section the term "building code" is intended to include all aspects of safe building construction and mechanical operations and all safety aspects related thereto: Provided, That the state fire marshal shall provide compliance alternatives for historic structures and sites as provided for in section five [§ 29-1-5], article one of this chapter, which compliance alternatives shall take into account the historic integrity of said historic structures and sites. Whenever any other state law, county or municipal ordinance or regulation of any agency thereof is more stringent or imposes a higher standard than is required by the state fire code, the provisions of such state law, county or municipal ordinance or regulation of any agency thereof shall govern, provided they are not inconsistent with the laws of West Virginia and are not contrary to recognized standards and good engineering practices. In any question, the decision of the state fire commission determines the relative priority of any such state law, county or municipal ordinance or regulation of any agency thereof and determines compliance with state fire regulations by officials of the state, counties, municipalities and political subdivisions of the state.

(d) Enforcement of the provisions of the state building code is the responsibility of the respective local jurisdiction. Also, any county or municipality may enter into an agreement with any other county or municipality to provide inspection and enforcement services.

(e) After the state fire commission has promulgated rules and regulations as provided herein, each county or municipality intending to adopt the state building code shall notify the state fire commission of its intent.

The state fire commission may conduct public meetings in each county or municipality adopting the state building code to explain the provisions of such rules and regulations. (1988, c. 114; 1990, c. 87.)

Cross references. — To building codes, adoption of §§ 7-1-3n, 8-12-13.

§ 29-3-6. Public

(a) Prior to the promulgation [§ 29-3-5] of this article a public hearing on the proposed code shall be the same as provided in the State Building Code Procedure Act, chapter 29-3-6.

(b) After the adoption of a state building code, each additional regulation promulgated by the state fire commission shall be subject to the same process as each amendment to the code submitted, notice of which shall be provided in the manner provided in the State Building Code Procedure Act [§ 29A-1-1 et seq.]

Future changes in the code shall be treated as any other amendments. The repeal of a current regulation shall not affect the standards set forth in a part of the code, possibly to be considered as a part of the state fire commission's code.

§ 29-3-7. Commission

For the purpose of this chapter, the commission is empowered to produce tecum, to take proceedings or examine any matter before the state fire commission and in case of dismission or any part of any circuit and the product of refusal to obey this chapter, shall be state fire commission evidence touching

REGISTRATION OF PUBLIC

PUBLIC HEARING - STATE FIRE CODE AND STATE BUILDING CODE

DATE: JUNE 23, 1994

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
FRANCIS GUFFER, FAIA	165 LAKEHURST DRIVE CHARLESTON WV 25313	AMERICAN INST. OF ARCHITECTS WV CODE OFFICER STATE FIRE COMMISSION	X
Jeff Heuback	Building 6 Army 533 State Capitol Complex	Energy Efficiency Program	
Bob Grove Sr	2024 ALABAMA L.W.	Inspection Services Inc	
STEPHEN PARSONS	MARTINSBURG WV 25401 1203 FOSTON AVE	West Virginia State Office Assn.	
Michael D Moore	BARBOURSVILLE WV PO Box 5097	City of Vienna	
JAMES C MOON	VIENNA WV 26105 611 E. PARK AVE	Architects Planners	?
SEAN G SIMON	FAIRMONT W.VA. 26554 205 WILSON ST. RAVENSWOOD WV 26164	Backward Assoc. INC JERRY GOLF ARCHITECTURE ST. ALBANS, WV	X
LARRY ROSE	300 SPRUCE ST. MORGANTOWN WV 26505	MORGANTOWN FIRE DEPT.	
GREG WILLIAMSON	410 Washington St E Charleston WV 25301	WV Society of Architects	X
R.C. BLANKINSHIP	405 CAPITOL ST. SUITE 300 CHARLESTON WV 25301	WV SOCIETY OF ARCHITECTS	
T.R. MORRILL/DNAE	405 CAPITAL ST. SUITE 300 CHARLESTON WV 25301	WV SOCIETY OF ARCHITECTS	

REGISTRATION OF PUBLIC

PUBLIC HEARING - STATE FIRE CODE AND STATE BUILDING CODE

DATE: JUNE 23, 1994

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
BERTHA L. E. Bowling	Box 23 Nellis, W.V. 25142 PO Box 312	W.U.G. For Hosp Engineers C.A.M.C. w/c Div.	?
RONALD STRICKER	P.O. Box WU 25156 1710 KANAWHA VALLEY ROAD MARTINSBURG, WV 25201	CAMC	?
FRANK PETTY	209 S. LILYPANE RAINELLE, W.V.	KREPS & KREPS ARCHITECTS W.M. SOC. ARCHITECTS W.M. SOC. PROF. ENG. W.M. ASS. CONSULTING ENG.	YES
RALPH D. WILLIAMS	P.O. Box 6250 Charleston, WV 25362	W.U. Woman Bldgs Assoc	Yes
Beth Thomsson	405 CAPITAL - SUITE 312 CHARLESTON WV 25301 AFC ID: 393-4253	HRC, INC	Yes
TED T. ZACHAROWA	359C Corporate Dr #107 Columbus, OH 43231-4987	BOCA International	Yes
Michael M. Westfall	315 VIEW AVENUE FAIRMONT, WV. 26554	City of Fairmont	
Richard V. McElroy	CITY POINT 156 Thompson DR. BRIDGEPORT WV 26330	U. Pres. WVCOA CITY OF BRIDGEPORT	YES
Randy L. Spellman	PO BOX 7076 Cross Lanes, WV 25356	Del 32nd Dist	
JAY NASHITT	PC PARK-CX BEECHY, WV 25802	SEA/PARTNERS, ARCHT	
NED R. FLEER			



The Department of Military Affairs and Public Safety

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Chairman
JOSEPH J. BOSTAR, III
Vice-Chairman
WILLIAM D. SITES
Secretary

GASTON CAPERTON, GOVERNOR
MAJOR GENERAL JOSEPH J. SKAFF
Secretary
State Fire Commission
State Capitol Complex
Charleston, West Virginia 25305

WALTER SMITTLE III
State Fire Marshal
Phone (304) 558-2191
FAX (304) 558-2537

July 28, 1994

Mr. Darr Robinson
City of Wheeling
Code Official
Wheeling, WV 26003

Dear Mr. Robinson:

The State Fire Commission has reviewed your written comments addressed to the State Fire Marshal. The adoption of the latest model codes as part of the State Building Code and the State Fire Code as mentioned in your correspondence is in process. The State Fire Commission will file the rules with the West Virginia Legislative Rule-Making Review Committee by August 15, 1994.

Your concerns have been noted and the Fire Commission appreciates your support.

Sincerely,

A handwritten signature in cursive script that reads "Bill L. Spencer".

Bill L. Spencer
Chairman

BLS/nlo



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JOSEPH J. BOSTAR, III
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July 28, 1994

Mr. Francis Guffey
165 Lakeshore Drive
Charleston, WV 25313

Dear Mr. Guffey:

The State Fire Commission acknowledges your comments and appreciate your participation at the public hearing regarding the adoption of the State Building Code and the State Fire Code.

The State Fire Commission endeavors to provide the latest technology in Building and Fire safety requirements to reduce unwanted losses. Thank you for your most favorable comments.

Sincerely,

A handwritten signature in cursive script that reads "Bill L. Spencer".

Bill L. Spencer
Chairman

BLS/nlo



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July 28, 1994

Mr. Sean G. Simon
205 Wilson Street
Ravenswood, WV 26164

Dear Mr. Simon:

The State Fire Commission appreciates your attendance and comments at the recent public hearing regarding the adoption of the latest model codes for the State Building Code and the State Fire Code.

The Commission concurs with your statement that the latest codes should be adopted. As a design professional the use of the latest technology is vital to your profession. The Fire Commission will endeavor to make this technology available to you and other design professionals as soon as information is available.

Sincerely,

A handwritten signature in cursive script that reads "Bill L. Spencer".

Bill L. Spencer
Chairman

BLS/nlo



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July 28, 1994

Mr. Greg Williamson, President
WV Society of Architects
410 Washington Street, East
Charleston, WV 25301

Dear Mr. Williamson:

The State Fire Commission appreciates your most favorable comments during the recent public hearing regarding the adoption of the latest codes for the State Building Code and State Fire Code.

As you have most appropriately identified these codes provide the professional designer with the most current safety technology for building and fire safety features. The Fire Commission recognizes the importance of technology in building designs and by adopting the latest codes available ensures the predictability in the event of a fire or other catastrophes affecting the people of West Virginia.

Thank you for your support.

Sincerely,

A handwritten signature in cursive script that reads "Bill L. Spencer".

Bill L. Spencer
Chairman

BLS/nlo



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State Fire Marshal

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July 28, 1994

Mr. Ralph D. Williams
209 3rd Lilly Park
Rainelle, WV

Re: Representing: WV Society of Professional Engineers
WV Association of Consulting Engineers
WV Society of Architects

Dear Mr. Williams:

The State Fire Commission appreciates your support regarding the adoption of the latest codes for the State Building Code and the State Fire Code.

Also, the Fire Commission is aware of the National Disaster Relief Act presently before Congress. Staff has been involved with this proposed legislation and dialogue will continue with the various entities regarding passage of this legislation.

Sincerely,

A handwritten signature in cursive script that reads "Bill L. Spencer".

Bill L. Spencer
Chairman

BLS/nlo



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July 28, 1994

Mr. Ted T. Zachwieja
405 Capitol Street
Suite 312
Charleston, WV 25301

Dear Mr. Zachwieja:

Thank you for your comments and support of the adoption of the latest model codes for the State Building Code and the State Fire Code. Your question regarding the adoption of the latest codes automatically was addressed by Mr. Smittle, State Fire Marshal. As indicated by the State Fire Marshal, a change in the state law would be required, specifically, the Administrative Procedures Act, Chapter 29A of the West Virginia Code.

Your participation and inquiry is very much appreciated.

Sincerely,

Bill L. Spencer
Chairman

BLS/nlo



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July 28, 1994

Mr. Randy L. Spellman
Vice President
WV Code Officials Association
156 Thompson Drive
Bridgeport, WV 26330

Dear Mr. Spellman:

The State Fire Commission appreciates your attendance and comments at the recent public hearing regarding the adoption of the latest edition of model codes for the State Building Code and State Fire Code.

Your question concerning a conflict between the two codes has been resolved. The State Building Code now stipulates "compliance with the most stringent standard/code" when a conflict occurs. This language is consistent with Chapter 29, Article 3, Section 5b of the West Virginia Code.

Again, thank you for your comments.

Sincerely,

Bill L. Spencer
Chairman

BLS/nlo



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July 28, 1994

Ms. Beth Thomasson
P. O. Box 6250
Charleston, WV 25362

Re: WV Homebuilders Association

Dear Ms. Thomasson:

The State Fire Commission appreciates your participation and comments regarding the adoption of the latest edition of codes for the State Building Code and State Fire Code.

The Fire Commission will be filing the adoption of the model codes with the West Virginia Legislative Rule-Making Review Committee by August 15, 1994. Again, thank you for your support.

Sincerely,

A handwritten signature in cursive script that reads "Bill L. Spencer".

Bill Spencer
Chairman

BLS/nlo



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July 28, 1994

Mr. Michael M. Westfall
3592 Corporate Drive, #107
Columbus, Ohio 43231-4987

Dear Mr. Westfall:

The State Fire Commission appreciates your comments at the public hearing regarding the adoption of the model codes for building designers. Your comments concerning Hurricane Andrew, grading every community enforcement authority by the year 2000 and review of natural disasters potential areas by 1995 is based on using the latest available codes to reduce property losses from fire and like emergencies.

The Fire Commission will be filing the adoption of the model codes with the West Virginia Legislative Rule-Making Review Committee by August 15, 1994. Again, thank you for your support.

Sincerely,

A handwritten signature in cursive script that reads "Bill Spencer".

Bill Spencer
Chairman

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July 28, 1994

Mr. Lloyd Miller
332 6th Avenue
South Charleston, WV 25303

Dear Mr. Miller:

The State Fire Commission appreciates your participation and comments regarding the adoption of the latest edition of model codes for the State Building Code and the State Fire Code. Your comments are very important to us, and we will endeavor to keep up to date with the latest technology. By adopting the latest editions of these codes, we can assist you as a designer of buildings in providing a reasonable environment from fire and like emergencies. Again, thank you for your comments.

Sincerely,

A handwritten signature in cursive script that reads "Bill L. Spencer".

Bill Spencer
Chairman

BLS/nlo



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July 28, 1994

Robert M. D'Alessandri, M.D.
Dean, School of Medicine
1151 Health Sciences North
Health Sciences Center
Morgantown, WV 26506

Dear Dr. D'Alessandri:

The State Fire Code information submitted to the State Fire Commission on Rural Health Care and Birthing Center facilities has been reviewed. The State Fire Commission accepted the recommendations for fire safety regarding these facilities with slight modification for clarity.

The State Fire Commission appreciates the conscientious approach of providing minimum fire safety requirements for these facilities, which will enhance the rural health care initiatives. Your select committee has made an exemplary effort in this vital area. West Virginia has accomplished another first in health care and fire safety.

Sincerely,

A handwritten signature in cursive script that reads "Bill L. Spencer".

Bill L. Spencer
Chairman

BLS/nlo