

**WEST VIRGINIA  
SECRETARY OF STATE**

KEN HECHLER

**ADMINISTRATIVE LAW DIVISION**

Form #3

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FILED  
1990 JUL 16 PM 1:53  
OFFICE OF THE SECRETARY OF STATE  
SOUTH WING BUILDING

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

AGENCY: West Virginia State Fire Commission TITLE NUMBER: 87

CITE AUTHORITY §29-3-5b

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: State Building Code

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

4

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.

  
State Fire Administrator



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

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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

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APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: State Building Code

Type of Rule: X Legislative          Interpretive          Procedural

Agency State Fire Commission Address State Capitol Bldg. EB-64  
Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services	3000		3000	-0-	-0-
Current Expense	750		750	-0-	-0-
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

Personal Services - estimate of time expended by State Fire Administrator and Assistant directly related to State Building Code.

Current Expense - copies, court reporter, notices, copies of codes, etc.

3. Objectives of these rules: The purpose of the building code, as stated in the authorizing legislation, is to improve the health, safety, and well-being of our citizens.

- State-of-the-art building construction, techniques, and materials has a direct impact upon the safety of the occupants; and the integrity and structural strength of a building.

- The state building code is expected to play a major role in the reduction of life and property losses due to fire.

- Assure the consumer that he/she is receiving a structure that has constructed to and in compliance with a nationally developed and recognized standard.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

Minimal cost, as stated above, to maintain the codes to the most up-to-date edition of national recognized standards.

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

Assure quality construction and protection individuals from fire and other life hazards.

C. Economic Impact on Citizens/Public at Large.

Better quality construction leading to reduction in uncontrolled fires will reduce losses due to fire and other incidents-Medium to long range should result in lower insurance premiums.

Date: July 16, 1990

Signature of Agency Head or Authorized Representative

Arvatt B Corley Jr  
State Fire Administrator

FISCAL NOT FOR PROPOSED RULES

Objectives of these rules:

- Life and property losses due to fire in West Virginia are one of the highest in the nation and all efforts should be made to institute long range efforts to protect our residents and to build-in fire safety features as rapidly as possible.

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: --- --

1.4 Effective Date:

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.

3.7 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,  
~~Tenth~~ Eleventh Edition, ~~1987~~ 1990

The BOCA National Plumbing Code,  
~~Seventh~~ Eighth Edition, ~~1987~~ 1990

The BOCA National Mechanical Code,  
~~Sixth~~ Seventh Edition, ~~1987~~ 1990

The BOCA National ~~Existing Structures~~ Property  
Maintenance Code,  
~~Second~~ Third Edition, ~~1987~~ 1990

The BOCA National Energy Conservation Code  
~~Fifth~~ Sixth Edition, ~~1987~~ 1990

The IFBB One- and Two-Family Dwelling Code  
~~1988~~ 1989 Edition

4.2 A copy of the ~~said respective~~ codes as 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 708 312/700-2300; OR BOCA International Regional Office, 3592 Corporate Drive, Suite 107, Columbus, Ohio 43221 46229, telephone 614/890-1064.

#### 67-4-5 ADOPTION BY LOCAL JURISDICTION

5.1 Each ~~county or municipality~~ intending to adopt local jurisdiction adopting the State Building Code shall notify the State Fire Commission ~~of its intent in writing, along with a copy of the local ordinance.~~ A copy of the ordinance or order ~~said documents~~ shall be sent forwarded to the State Fire Administrator, West Virginia State Fire Commission, State Capitol Building, Room FB-64, Charleston, West Virginia 25305, within thirty (30) days of the adoption.

5.2 Each ~~county or municipality~~ local jurisdiction which adopts the State Building Code shall have responsibility for the enforcement of the building code as provided in West Virginia Code 7-1-3a 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 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 adoption "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 will be considered to be met with the creation by the local jurisdiction of a single appeals board for the entire "State Building Code."

#### 67-4-6 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 ~~shall be deemed~~ are severable. Should any section or sub section be ~~deemed~~ ruled unconstitutional by judicial opinion ~~unconstitutional~~ or in any manner contrary to the laws of the State of West Virginia, then such opinion or enactment shall invalidate only that particular section or subsection of these rules and regulations and all other sections shall remain in full force and effect: Provided, that such remaining portions are not determined to be inseparable, and to this end these rules and regulations are declared ~~separable~~ severable.

032290  
040990  
042790

Added language - underlined

Deleted language - ~~bold lettering~~ and "strike-thru"

Prevent Fires

Save Lives

STATE OF WEST VIRGINIA



GASTON CAPERTON  
Governor

Office of the State Fire Administrator

State Capitol Building, EB-64  
Charleston, West Virginia 25305

Telephone  
(304) 348-3279

MEMORANDUM

DATE: May 1, 1990

TO: Joseph J. Skaff *approved*  
Secretary  
Department of Public Safety

FROM: Arnett B. Corley, Jr. *ABC*  
STATE FIRE ADMINISTRATOR

SUBJECT: State Building Code

Enclosed are proposed revisions to be made to the State Building Code.

This is essentially the same rules we now have, this just updates us to the 1990 versions of the National Codes and adds sections to clarify areas where local jurisdictions were experiencing some problems with implementation.

The Commission would like to file these as both emergency rules and administrative rules as soon as possible. I have also scheduled a Public Hearing for June 14th to coincide with the Commission Meeting scheduled on June 15 here in Charleston.

Your consideration of the rule changes and your subsequent approval is appreciated.

Should you have any questions or concerns please let me know.

001861

STATE FIRE ADMINISTRATOR

1990 JUN 29 P 2:54

RECEIVED

Francis Guffey -  
West Virginia Society of Architects  
American Institute of Architects  
405 Capitol Street, Suite 60  
Charleston, West Virginia 25301

Robert Coil  
West Virginia Planning Association  
P.O. Box 669  
Charleston, West Virginia 25323

Floyd M. Sayre, Jr.  
Associated Builders and Contractors  
812 Quarrier Street  
P.O. Box 1335  
Charleston, West Virginia 25325

Richard C. Williams  
West Virginia Code Officials Association  
#1 Government Square  
P.O. Box 1927  
Parkersburg, West Virginia 26101

Betty Dean  
West Virginia Municipal League  
4104 MacCorkle Avenue  
Charleston, West Virginia 25304

Martin Conant, Senior Service Coordinator  
BOCA  
Mid-East Regional Office  
3592 Corporate Drive  
Suite 107 Columbus, Ohio 43229-4987

Leff Moore  
West Virginia Electrical Contractors Association  
West Virginia Heating, Ventilation & Air Conditioning Association  
West Virginia Manufactured Housing Association  
209 First Avenue  
Nitro, West Virginia 25143

John Hoff  
West Association of Counties  
922 Quarrier Street  
Room 514  
Charleston, West Virginia 25301

Beth Thomason  
Home Builders Association of West Virginia  
700 Virginia Street, West  
Charleston, West Virginia 25302



JAMES FIFE  
Chairman

GASTON CAPERTON  
Governor

ARNETT B. CORLEY, JR.  
State Fire Administrator  
(304) 348-3279

BILL SPENCER  
Vice-Chairman

**STATE FIRE COMMISSION**

State Capitol Building  
EB-64

WALTER SMITTLE, III  
State Fire Marshal  
(304) 348-2191

WILLIAM D. SITES  
Secretary

Charleston, West Virginia 25305

FOR IMMEDIATE RELEASE

The West Virginia State Fire Commission is beginning the process to ammend various sections of the State Building Code.

Any municipality or county in West Virginia which desires to have a "building code" is required to adopt the State Building Code and to notify the State Fire Commission with a copy of their ordinance. Any other building codes which may have been adopted previous to April 28, 1990, are no longer valid. Failure to notify the State Fire Commission of the adoption of the State Building Code may also cast doubt upon the validity of building codes at the respective local jurisdiction level.

The primary change will be the adoption of the 1990 versions of the various national codes which have previously been adopted by reference.

Other changes are to clarify the authority and responsibility of the local jurisdictions; and to remove some portions of the rule which were causing confusion.

A public hearing on these changes is scheduled for June 14, 1990 at 1:00 PM at the State Capitol Conference Center in Charleston.

For further information contact:

Arnett B. Corley, Jr.  
State Fire Administrator  
State Capitol Building, EB-64  
Charleston, West Virginia 25305  
(304) 348-3279

REGISTRATION OF PUBLIC  
AT  
STATE FIRE COMMISSION MEETINGS

*David Sisson  
Court Reporter*

STATE BUILDING CODE, CHARLESTON, WV DATE: JUNE 14, 1990

NAME Please print or write plainly	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
OLIVER L. JENKINS	800 6TH ST. MDS W/4 Charleston	Mouy&Sri/k CITY OF MDS.	
Arnest B Corley Jr		State Fire Admin	

REGISTRATION OF PUBLIC  
AT  
STATE FIRE COMMISSION MEETINGS

STATE BUILDING CODE, CHARLESTON, WV      DATE: JUNE 14, 1990

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly	1204 Kanawha Blvd East		
Judith A Dyer	Chas 25301 P.O. Box 1184	Fuel and Energy Office	
DALE BLACKHORN	CHAS. 25324	City of Charleston	
Gene Schuler	405 Capital St., Suite 407	AIA	
FRANCIS GUFFEY	915 BREZZENDON DR. CHARLESTON WV	AIA	
EDITH JOHNSON	P.O. Box 1059 HUNTINGTON, W. VA	CITY OF HUNTINGTON	
M. R. KARNES	" " "	" " "	

REGISTRATION OF PUBLIC  
AT  
STATE FIRE COMMISSION MEETINGS

STATE BUILDING CODE, CHARLESTON, WV DATE: JUNE 14, 1990

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly Dick Williams	#1 Government Square 3596 Corporate Dr. Site 107 Columbus, OH 43231	W. Va Code Assoc.	
Martin Conant		BOCA	
Bill Roy	11 West Main St Grafton	Baker Co & City of Grafton	
J.D. Waggoner	410 Eagles Dr., Chas. 25306	WV State Fire Council	

REGISTRATION OF PUBLIC  
AT  
STATE FIRE COMMISSION MEETINGS

STATE BUILDING CODE, CHARLESTON, WV DATE: JUNE 14, 1990

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
Garry L Johnson	839 7 Ave <sup>25764</sup> Huntington, W. Va	Huntington Fire Dept	
Bruce L Miller	248 Grand St. Capotown, W. Va	Troyer Co. Fire Dept	
Bill L. Spence	247 Ocala St. Charls, W. Va	WVA S.F.C.	
James Pite	White Sul. Spgs W. Va	WVA S.F.C.	



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Parkersburg 428-1628

Daniel Fowler, Vice Pres.  
Charleston 348-6833

Dale Blackburn, Sec.- Tres.  
Charleston 348-6834

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WEST VIRGINIA CODE OFFICIALS ASSOCIATION  
2017 QUARRIER STREET CHARLESTON, WV 25311

May 9, 1990

State Fire Commission  
Arnett B. Corley, Jr.  
State Fire Administrator  
Capitol Complex  
Charleston, WV 25305

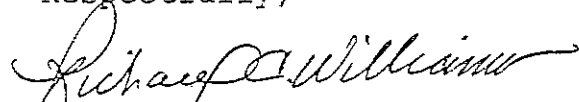
Dear Mr. Corley:

With the adoption of the State Building Code came an unprecedented opportunity for code officials to organize toward enhanced professional performance. A code officials association has since formed welcoming active members representing counties and municipalities statewide. Among the goals of the association are education and certification of code enforcement personnel, uniformity in interpretation and application of the codes and improved public relations.

On behalf of the West Virginia Code Officials Association, we wish to express support for the adoption of the 1990 BOCA National Building Code as our State Building Code. This matter was discussed among the membership at the last general meeting on March 17, 1990. Those present were in agreement and resolved to support and encourage the adoption of the 1990 BOCA Codes.

While the State Building Code is being integrated into the operations of each county and municipality, it will be advantageous to utilize the most current and comprehensive code available.

Respectfully,

  
Richard C. Williams  
President of the State Code  
Officials Association



## City of Princeton

June 6, 1990

James W. Fife  
508 East Main Street  
White Sulphur Springs, WV 24986

RE: Building and Fire Codes Promulgated by the  
State Fire Commission

Dear Mr. Fife:

I would like to congratulate you on your appointment to the West Virginia State Fire Commission in the newly reappointed Fire Commission.


I would also like to discuss an issue that is coming up on June 14 in the State Fire Commission concerning the adoption of the new 1990 BOCA Code, as well as, the previous National Fire Codes which the State of West Virginia operates under. First, I would like to encourage the adoption of the 1990 BOCA Code as a model code of the State of West Virginia. In the last year and a half, this Code has been very helpful to me both as a Fire Code Official and as a Building Official. At the Fire Commissions last adoption the BOCA Fire Code was left out so the State Fire Code and the National Fire Code would take precedence. I would like to ask you to consider adopting the BOCA Fire Prevention Code and the BOCA 1990 Code. So that the complete set of BOCA Codes would be used. I would also like to ask that you promulgate the 1990 National Fire Codes as the State Fire Codes as well as the BOCA Codes. Currently, in the state of West Virginia, we are working under the 1983 National Fire Code and the 1981 Life Safety Code. It is not possible at this time to obtain the 1983 Fire Code nor the 1981 Codes because they are out of stock and out of print. As our State continues to progress toward a more safe and modern state it becomes increasingly harder to enforce the Codes throughout the State when we are working with Codes that are not obtainable. As you are a Fire Service member, I am sure that you understand that in the last seven or eight years the Fire service (1983-1990 Code difference) has grown and technology changed tremendously. In keeping with this the new codes have done just that, whereas, the old codes do not afford the protection or address some of the new and current technologies known to us today. I do understand that this will cause additional cost to all those parties involved who do have codes and enforcement. However, I feel in order to be a progressive state we must move ahead with these codes.

-2-

The next issue I would like to address is in the State Fire Code itself. When we adopted the Building Code there was a provision that if there was a conflict between the State Building Code and the State Fire Code (Series 87-4-3) under 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). I would like to see your consideration in a change to state that whenever there arises a conflict between the State Fire Code and the State Building Code the more strenuous shall take precedence.

I would like to thank you for taking the time to read this. Should you have any questions please feel free to contact me in the Princeton area. I am looking forward to working with you in any way that we can to move the State of West Virginia along to a future of technology and safety.

Sincerely,

  
Jeff Simpkins  
Fire/Code Enforcement Officer

JS:mt

BEFORE THE WEST VIRGINIA STATE FIRE COMMISSION

In the matter of:

REVISIONS IN THE STATE FIRE CODE

*Building*

Transcript of proceedings had in a public hearing in the above-entitled matter before the West Virginia State Fire Commission in Room B of Building 7 in the State Capitol Complex, Charleston, West Virginia, at 1:00 p.m., on the 14th day of June 1990.

APPEARANCES: JAMES W. FIFE, Chairman of Commission  
ARNETT B. CORLEY, JR., State Fire  
Administrator

N. JOAN THAXTON COURT REPORTERS, INC.  
7715 Sissonville Drive  
Charleston, WV 25320  
(304) 988-3970

I N D E X

<u>Speaker</u>	<u>Page</u>
Francis Guffey	10

1 CHAIRMAN FIFE: Ladies and gentlemen, my  
2 name is James Fife. I am the chairman of the State Fire  
3 Commission.

4 We are here for a public hearing on the  
5 update of the building code and also a change in some of  
6 the regulations, clarifying some language so that the  
7 individual cities and counties can adopt this code and set  
8 forth some penalties for some of the violations.

9 We have fourteen people here at the hearing.  
10 I have no one that signed that they wanted to speak. Is  
11 there any of you that would like to address?

12 You are making this nice and short and sweet  
13 for me. If we have no comments -- we are eight minutes  
14 after one. We were supposed to start at 1:00. So I reckon  
15 we will declare this hearing over then.

16 (WHEREUPON, a discussion  
17 was had off the record.)

18 CHAIRMAN FIFE: Right now we have adopted  
19 the 1987 BOCA Building Code, and it will be changing it to  
20 adopt the 1990 BOCA Building Code.

21 MR. CORLEY: In the building code language

1 you have got a wiring code, a beginning code, a property  
2 and maintenance code. You have a conservation code, CABO,  
3 all individual codes and upgraded to current provisions.

4 CHAIRMAN FIFE: Are there any other  
5 questions that any of you have? We will try to answer  
6 them.

7 MR. JENKINS: One question I would have,  
8 will there be amendments available or will we have to buy  
9 the whole code?

10 CHAIRMAN FIFE: If you adopt the state  
11 building code, I think you have to do the whole works; is  
12 that correct?

13 MR. CORLEY: Yes, that is my understanding.

14 MR. SCHULER: Will there be amendments to  
15 the 1987 Code?

16 CHAIRMAN FIFE: No, you will do away with --  
17 1987 will be done away with, and we will go with the 1990.

18 MR. CORLEY: All we are doing is when it was  
19 adopted last year, we adopted what was available, which was  
20 the 1987 versions of the various BOCA documents.

21 What this does is upgrade everything to the

1 1990 version. BOCA reprints on a three-year cycle. That  
2 is what we are trying to get on because as you become  
3 members of BOCA you are going to get these automatically.  
4 You will have them in your hands probably before the state  
5 can react fast enough to make it current.

6 This first year has been kind of -- we  
7 hardly got the 1987s in because of the time span before we  
8 were looking at doing the 1990s.

9 MR. BLACKBURN: It will be three more years  
10 then before they are revised?

11 MR. CORLEY: Yes, sir. Then we will adopt  
12 the 1993s, if BOCA is on their three-year schedule then.  
13 We will pick up the 1993s, and we will go through this  
14 process again.

15 MR. JENKINS: They are adopting the 1990  
16 Code as it is without any changes.

17 MR. CORLEY: Yes, sir. We cannot change it.  
18 The only place it can be changed is during the BOCA  
19 process. Our state code says we have to adopt the  
20 nationally recognized -- that is what we are trying to stay  
21 away from so that it is not a -- there is a variety of them

1 floating around the state.

2 MR. JENKINS: The language that we are  
3 talking about, filling in those blanks and then the  
4 administrator --

5 MR. CORLEY: Yes.

6 MR. JENKINS: In other words, some of these  
7 are included --

8 MR. CORLEY: This is included in that  
9 says -- well, I am standing here looking at the wrong  
10 version. They gave me a copy of the wrong thing.

11 We put language in. We did not change the  
12 rules and regulations as to concept. But we have got a  
13 statement in, I had to reword this a little bit, that  
14 authorizes each local jurisdiction where there are areas  
15 within that code --

16 CHAIRMAN FIFE: Here we go.

17 MR. CORLEY: This is it. "Throughout the  
18 national codes as adopted in Section 4.1 of this rule there  
19 are discretionary provisions which require further action  
20 by the adopting jurisdiction in order to adapt these codes  
21 to the various local conditions.

1                    "It is therefore the intent of these rules  
2 to further authorize each local jurisdiction to further  
3 complete by order or ordinance those respective areas which  
4 are indicated to be completed by the adopting  
5 jurisdiction."

6                    Further going into it just so that everybody  
7 is clear, Section 5.4 says, "Within the penalty section of  
8 each of the national codes as adopted in Section 4.1 of  
9 this rule there is a penalty for imprisonment. The  
10 provisions of imprisonment for any violation of these rules  
11 is to be considered optional with each adopting local  
12 jurisdiction."

13                    The fifth point, "Each of the national codes  
14 as adopted in Section 4.1 of this rule provides for a  
15 separate appeals board. However, the intent and  
16 requirement for an appeal board will be considered to be  
17 met with the creation by the local jurisdiction of a single  
18 appeal board for the entire state building code."

19                    That is basically the only language we have  
20 changed other than some other throughout. It did not  
21 change the content but clarified the language as in filing

1 the codes with us.

2 It said, "an intent to adopt." We struck  
3 the intent. If you are going to adopt it, send us a copy  
4 of the order, period.

5 CHAIRMAN FIFE: There is one other thing in  
6 there that people were having problems with that we think  
7 was unsolicited for in that law that small towns did not  
8 have architects and engineers in their jurisdiction.

9 But it also says in that law in Chapter 29,  
10 Paragraph D, that you can make arrangements with other  
11 governments or municipalities to use their  
12 enforcing services. That was throwing people off.

13 MR. CORLEY: I think people begin to read  
14 this with blinders on. Granted, any law you have got some  
15 wordy areas. But when you talk about jurisdiction, the  
16 appeals board says they have to come from the jurisdiction.  
17 I think you would have a real strong question here.

18 This is a state building code. If they live  
19 within the state, then they are within the jurisdiction of  
20 this code. That is one aspect.

21 Second, you are absolutely correct in that

1 the statutory law permits a county and cities to contract  
2 with each other back and forth in a myriad of combinations  
3 the way it is written to contract for enforcing of this --  
4 all one county would have to do would be to adopt it, and  
5 they could contract with a county to enforce it.

6 Case in point, the first municipality in the  
7 state to adopt this was the little town of Womelsdorf.  
8 I doubt there is a soul in here that knows where Womelsdorf  
9 is. It is in Randolph County, and it is called Colton on  
10 the map. I do not think they knew what they did, but they  
11 were the first one to file and complete it and say, "We  
12 have adopted the state building code."

13 I know they are not going to have a building  
14 inspector or anything else. But if Randolph County adopts  
15 the state building code per se and sets up an inspection  
16 bureau, then Womelsdorf could contract with Randolph County  
17 to do that, or if Elkins has an inspector, they can  
18 contract with Elkins. An inspector from Elkins can ride  
19 down the road ten miles and serve that function. That is  
20 basically what the statutory law says.

21 MR. BLACKBURN: Or the same thing for those

1 appeal boards.

2 MR. CORLEY: Yes. That is what I say, with  
3 that provision then the appeal board itself -- I think you  
4 have got to read the jurisdiction in the very broad sense  
5 of the matter as to what jurisdiction is, not the city or  
6 municipality. I think that jurisdiction is you are looking  
7 at the state, the way that is written.

8 CHAIRMAN FIFE: Mr. Guffey?

9 MR. FRANCIS GUFFEY: Francis Guffey, West  
10 Virginia Society for --

11 CHAIRMAN FIFE: Why don't you come up here  
12 where we can . . .

13 MR. GUFFEY: To reinforce what Sonny just  
14 said, I have had a number of telephone calls from towns and  
15 cities who have said, "Well, we do not have any architects  
16 aboard or within the city limits."

17 We have been able to refer them to  
18 architects that live fairly nearby who would be willing to  
19 volunteer their services on the appeals board.

20 So I think what you have said, the broad  
21 sense of the definition of jurisdiction is in actuality

1 working out just fine. Thank you.

2 CHAIRMAN FIFE: Any other questions or  
3 comments? We will declare this hearing over again.

4 (WHEREUPON, at 1:15 a.m.,  
5 this hearing was concluded.)

## REPORTER'S CERTIFICATE

I, the undersigned, David Sisson, a Court Reporter, do hereby certify that the foregoing is, to the best of my skill and ability, a true and accurate transcript of all the proceedings had in the aforementioned matter, as set forth in the caption hereof, at a public hearing held on the 14th day of June 1990.

  
\_\_\_\_\_  
Court Reporter