

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In this Box

FILED
1989 AUG 14 10 3 51
SECRETARY OF STATE

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

AGENCY: State Fire Commission TITLE NUMBER: Series V

CITE AUTHORITY 29-3-12b

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

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

TITLE OF RULE BEING PROPOSED: Fees of Services Rendered

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

Ronald A. Kyle

Ronald A. Kyle, Chairman
State Fire Commission

August 11, 1989

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Fees for Services Rendered

Type of Rule: XXX Legislative Interpretive Procedural

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

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 100,000	\$	\$ 45,000	\$ 100,000	\$ 100,000
Personal Services	60,000		?	60,000	60,000
Current Expense	20,000			20,000	20,000
Repairs and Alterations	2,000			2,000	2,000
Equipment	5,000			5,000	5,000
Other (Employee Benefits)	13,000			13,000	13,000

2. Explanation of above estimates:

Projected revenues include electrician certification program, explosives permit fees, inspection fees and plan review fees to be collected in accordance with fee schedule as proposed.

3. Objectives of these rules:

The objective of these rules is to permit the fire marshal to collect fees for services rendered as a means to supplement the budget and thereby enhancing the fire safety programs for the State of West Virginia.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

The revenue collected will enable the State Fire Commission to more effectively deal with the fire programs by increasing the revenues for the State Fire Commission's budget.

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

Political subdivisions, industry and individuals who have been receiving free services will now be required to pay the fees as proposed. All the permits and services except electrician services, provided by the State Fire Marshal's Office were free of charge.

C. Economic Impact on Citizens/Public at Large.

Revenues collected will be expended to enhance the fire safety programs for improved responsive services to the public.

Date: August 14, 1989

Signature of Agency Head or Authorized Representative

DATE: August 14, 1989
TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
FROM: State Fire Commission
LEGISLATIVE RULE TITLE: Fees for Services Rendered

1. Authorizing statute(s) citation Chapter 29, Article 3,
Section 12b.
2. a. Date filed in State Register with Notice of Hearing:
June 14, 1989
- b. What other notice, including advertising, did you give of the hearing?
Public Notice forwarded to all newspaper publishers (daily and weekly), radio and television companies in West Virginia. (Copy of notice attached and news media addresses)
- c. Date of hearing (s): July 17, 1989
- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached XXX No comments received
- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)
August 14, 1989
- f. Name and phone number of agency person to contact for additional information:
Walter Smittle III - 348-2191
L. Darl Cross - 348-2191

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

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

N/A

b. Date of hearing: N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A

FILED

TITLE 87
LEGISLATIVE RULES
STATE FIRE MARSHAL'S OFFICE

AUG 14 1989 3:51

OFFICE OF THE STATE FIRE MARSHAL

SERIES V
FEES FOR SERVICES RENDERED

1-1. General

1.1 Scope - These legislative rules establish the fee to be charged by the State Fire Marshal for services rendered.

1.2 Authority - West Virginia Code, Chapter 29, Article 3, Section 12b.

1.3 Filing Date - August 14, 1989

1.4 Effective Date - August 14, 1989

2-2. Schedule Of Fees For Services Rendered By The State Fire Marshal for Blasters License, Pyrotechnics License, Fireworks Display, Inspections, Plan Reviews, and Electricians Licensing.

2.1 Blasters Permit To Use:

- A - Unlimited - All types of blasting. \$50.00
- B - General Aboveground - All phases of blasting operations in quarries, open pit mines, and aboveground construction. \$40.00
- C - General Underground - All phases of blasting operations in underground mines, shafts, tunnels, and drifts, excluding coal mining. \$40.00
- D - Demolition - All phases of blasting in demolition projects. \$50.00
- E - Seismic - All phases of blasting in seismic prospecting. \$30.00
- F - Agriculture - All phases of blasting in agriculture, but limited to not more than 50 lb. (22.7 kg.) per blast. \$10.00
- G - Special - Special blasting as described on the permit including underground coal mining. \$15.00

2.2 Permit To Sell Explosives - \$50.00

2.3 Permit To Store Explosives - Permanent storage site - \$50.00. Portable storage magazine (Day Box)- \$10.00 per unit.

2.4 Pyrotechnics License - \$10.00

2.5 Public Fireworks Display Permit - 1% of cost of display with a \$100 maximum fee.

2.6 Inspection Of School Or Day Care Facility - \$25.00 per building per year.

2.7 Inspection Of Hospital or Nursing Homes:

Hospitals:

100 or more beds - \$100.00 per bldg. per year.

99 or less beds - \$ 75.00 per bldg. per year

Nursing Homes:

100 or more beds - \$100.00 per bldg. per year

99 or less beds - \$ 75.00 per bldg. per year

2.8 Inspection Of Personal Care Homes or Board & Care Homes.

Personal Care Homes - \$50.00 per bldg. per year

Board & Care Homes - \$30.00 per bldg. per year

2.9 Inspection Of Residential Occupancies

Hotels/Motels - \$100 per inspection.

Dormitories - 51 or more beds - \$100 per inspection

50 or less beds - \$50 per inspection

Apartments - 13 or more units - \$75 per inspection

12 or less units - \$50 per inspection

Lodging & Rooming Houses - \$30 per inspection

2.10 Inspection Of Mercantile Occupancies

Covered Malls - \$100 per inspection

Combined Mercantile & Residential Occupancy - \$75 per inspection

Class A Stores - \$100 per inspection

Class B Stores - \$ 75 per inspection

Class C Stores - \$ 50 per inspection

2.11 Inspection Of Mercantile Occupancies on Justified Complaint - \$25

2.12 Inspection Of Business Occupancies

City Halls - \$30 per inspection

Colleges & Universities including instructional buildings, classrooms under 50 persons, and instructional laboratories - \$100 per inspection

Courthouses - \$50 per inspection

Dentists & Doctors Offices - \$50 per inspection

General Offices - \$50 per inspection

Laboratories - \$100 per inspection

Outpatient Clinics, Ambulatory - \$75 per inspection

2.13 Inspection Of Business Occupancies On Justified Complaint - \$25

- 2.14 Inspection Of Class A Place of Assembly - \$100
- 2.15 Inspection Of Class B Place of Assembly - \$75
- 2.16 Inspection Of Class C Place of Assembly - \$50
- 2.17 Fire Safety Review of Architectural Plans and Specifications Of New and Existing Construction - \$10
- 2.18 Fire Safety Review of Sprinkler Plans and Specifications - \$10
- 2.19 Fire Safety Review of Fire Alarm Plans and Specifications - \$10
- 2.20 Fire Safety Review of Range Hoods Plans and Specifications - \$10
- 2.21 Fire Safety Review of Structural Barrier Plans and Specifications - \$10
- 2.22 Fire Safety Review of All Other Plans and Specifications - \$10
- 2.23 Walk-In Review Of Plans And Specifications - \$10
- 2.24 Field Review of Plans and Specifications - \$10
- 2.25 Review For Carpet Specifications for Certification - \$10
- 2.26 Review Of Plans and Specifications for Variance Requests - \$10
- 2.27 Renewal or Licensing of Electricians - \$50
- 2.28 Late Fee For Renewal of Electricians License - \$15
- 2.29 Examination of Master and Journeyman Electricians - \$25
- 2.30 Examinations of Apprentice Electricians - \$10
- 2.31 Re-examinations of Electricians - \$10

STATE OF WEST VIRGINIA



RONALD A. KYLE
Chairman

BILL SPENCER
Vice-Chairman

WILLIAM D. SITES
Secretary

GASTON CAPERTON
Governor

STATE FIRE COMMISSION
Capitol Complex

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

ARNETT B. CORLEY, JR.
State Fire Administrator

WALTER SMITTLE, III
State Fire Marshal

JUNE 26, 1989

NEWS RELEASE

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

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

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

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP CODE	REMARKS
WSWP-TV	1900 WASHINGTON ST.E.	CHARLESTON	WV	25305	
WSWP-TV	P. O. BOX AH	BECKLEY	WV	25801	
WCIR-AM/FM	305 RESERVOIR ROAD	BECKLEY	WV	25801	
WJLS-AM/WBY4-FM	P. O. BOX 1452	BECKLEY	WV	25802	
MVPB-FM	1900 WASHINGTON ST. E.	CHARLESTON	WV	25305	
WWNR-AM	P. O. BOX AE	BECKLEY	WV	25802	
WCST-AM/FM	P. O. BOX 10	BERKELEY SPRINGS	WV	25411	
WVBC-FM	BETHANY COLLEGE	BETHANY	WV	26032	
HVVA-TV	PO.BOX 1930/RT.460 BYPASS	BLUEFIELD	WV	24701	
WHIS-AM/WHAJ-FM	RADIO CTR/900 BLUEFIELD	BLUEFIELD	WV	24701	
WKDY-AM	623 COMMERCE	BLUEFIELD	WV	24701	
WDTV	PO BOX 480 FIVE TV DRIVE	BRIDGEPORT	WV	26330	
WVWC-FM	WEST VIRGINIA WESLEYAN	BUCKHANNON	WV	26201	
WBUC-AM/WBTD-FM	P. O. DRAWER C	BUCKHANNON	WV	26201	
WCHS-TV	1301 PIEDMONT	CHARLESTON	WV	25301	
WCAW-AM/V100-FM	P.O. BOX 4318	CHARLESTON	WV	25364	
WCHS-AM/WBES-FM	1111 VIRGINIA ST. E.	CHARLESTON	WV	25301	
WBBE-AM/FM	4250 WASHINGTON ST. W.	CHARLESTON	WV	25313	
WTIP-AM/WVSR-FM	817 SUNCREST PLACE	SO. CHARLESTON	WV	25303	
WVPH-FM	1900 WASH. ST. E.	CHARLESTON	WV	25305	
WXIT-AM	136 HIGH STREET	CHARLESTON	WV	25311	
WSCW-AM/WJYP-FM	605 D ST./PO BOX 8718	SO. CHARLESTON	WV	25303	
WXVA-AM/FM	P. O. BOX 700	CHARLES TOWN	WV	25414	
WBOY-TV	912 W. PIKE ST.	CLARKSBURG	WV	26302	
WLYJ-TV	PO BOX 2544/775 W. PIKE	CLARKSBURG	WV	26302	
WHAR-AM/WVHF-FM	350 W. MAIN STREET	CLARKSBURG	WV	26301	
WKKM-FM	P. O. BOX 1546	CLARKSBURG	WV	26301	
WPDX-AM/FM	BOX 1920	CLARKSBURG	WV	26301	
WPQZ-AM	130 S. 2ND STREET	CLARKSBURG	WV	26301	
WDNE-AM/WVHT-FM	WASHINGTON & DAVIS STS.	ELKINS	WV	26241	
WELK-FM	228 RANDOLPH AVENUE	ELKINS	WV	26241	
WFGM-FM	1101 FAIRMONT AVENUE	FAIRMONT	WV	26554	
WMMN-AM	307 WASHINGTON ST.	FAIRMONT	WV	26554	
WTCS-AM STEREO	RADIO PARK, LEONARD AVE.	FAIRMONT	WV	26554	
WELD-AM/FM	KESSEL ROAD	FISHER	WV	26818	
WFGH-FM	BROADCAST BLDG. COURT ST.	FORT GAY	WV	25514	
WVMR-AM		DUNMORE	WV	24934	
WTEZ-AM/FM	P. O. BOX 2	GRAFTON	WV	26354	
WMTD-AM/FM	P.O. BOX 850	HINTON	WV	25951	
WOWK-TV	P. O. BOX 13	HUNTINGTON	WV	25706	
WSAZ-TV	645 FIFTH AVENUE	HUNTINGTON	WV	25701	
WAMX-FM	P. O. BOX 1150	HUNTINGTON	WV	25713	
WEMM-FM	703 THIRD AVENUE	HUNTINGTON	WV	25701	
WGNT-AM	P. O. BOX 1150	HUNTINGTON	WV	25713	
WTCR-AM	RADIO PARK ROAD	CATLETTSBURG	KY	41129	

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NAME	ADDRESS	CITY	STATE	ZIP	REMARKS
WTCR-FM	P. O. BOX 2186	HUNTINGTON	WV	25722	
WKEE-AM/FM	1034 SIXTH AVENUE	HUNTINGTON	WV	25701	
WMUL-FM	COMM. BLDG. MARSHALL UNIV.	HUNTINGTON	WV	25701	
WAEZ-FM	P. O. BOX 2324	HUNTINGTON	WV	25725	
WVAH-TV	23 BROADCAST PLAZA	HURRICANE	WV	25526	
WVKV-AM	BOX 1080	HURRICANE	WV	25526	
WEYS-FM	#1 BRUCE STREET	INSTITUTE	WV	25112	
WKLP-AM/WB7K-FM	DRAWER F	KEYSER	WV	26726	
WFSP-AM	P. O. BOX 567	KINGWOOD	WV	26537	
WKMM-FM	P. O. BOX 967	KINGWOOD	WV	26537	
WKCJ-FM	P. O. BOX 305	LEWISBURG	WV	24901	
WLOG-AM	BOX 1800	LOGAN	WV	25601	
WYOH-AM/FM	SEARS BLDG.	LOGAN	WV	25601	
WWBB-AM	ONE BROADCAST PLACE	MADISON	WV	25130	
WEPH-AM/WKNZ-FM	P.O. BOX 767	MARTINSBURG	WV	25401	
WRNR-AM	P. O. BOX 709	MARTINSBURG	WV	25401	
WHJC-AM	BOX 68	MATEWAN	WV	25678	
WNST-AM	P. O. BOX 266	MILTON	WV	25541	
WMDN-AM	BOX 750	MONTGOMERY	WV	25136	
WAJR-AM/WVAZ-FM	GREER BLDG. RT. 7	MORGANTOWN	WV	26505	
WOLG-AM/FM	BOX 885	MORGANTOWN	WV	26505	
WWVU-FM	MOUNTAIN LAIR, WVU	MORGANTOWN	WV	26505	
WEIF-AM	317 7TH ST./P. O. 0	MOUNDSVILLE	WV	26041	
WTNJ-FM	609 MAIN STREET	MOUNT HOPE	WV	25880	
WPMW-FM	14 MORAN AVENUE	MULLENS	WV	25882	
WETZ-AM	P. O. BOX 249	NEW MARTINSVILLE	WV	26155	
WKGI-FM	P. O. BOX 267	NEW MARTINSVILLE	WV	26155	
WDAY-TV	P. O. BOX 251	OAK HILL	WV	25901	
WDAY-AM/FM	P. O. BOX 251	OAK HILL	WV	25901	
WTAP-TV	121 W. SEVENTH	PARKERSBURG	WV	26101	
WKYG-AM/WYXX-FM	1715/1717 ST. MARYS AVE.	PARKERSBURG	WV	26102	
WLTP-AM/WNUS-FM	BOX 428	BELPRE	OH	45714	
WXIL-FM	P.O. BOX 1228	PARKERSBURG	WV	26102	
WADC-AM/WMBP-FM	703 MARKET STREET	PARKERSBURG	WV	26101	
WAEY-AM/FM	BOX 5568	PRINCETON	WV	24740	
WKMY-FM	945 MERCER ST.	PRINCETON	WV	24740	
WRRL-AM/FM	BOX 764	RAINELLE	WV	25962	
WMOV-AM	61328 STREET	RAVENSWOOD	WV	26164	
WVAR-AM	BOX 349	RICHWOOD	WV	26261	
WCEF-FM	BOX 798	RIPLEY	WV	25271	
WRON-AM/FM	276 SENECA TRAIL NORTH	RONCEVERTE	WV	24970	
WYKM-AM	BOX 627, RT. 60	RUPERT	WV	25984	
WKAZ-AM/WKLC-FM	100 KANAWHA TERRACE	ST. ALBANS	WV	25177	
WRRR-FM	BOX 374, GREENS RUN ROAD	ST. MARYS	WV	26170	
WVRC-AM	106 RADIO ST.	SPENCER	WV	25276	

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NAME	ADDRESS	CITY	STATE	ZIP	REMARKS
WCWV-FM	713 MAIN ST.	SUMMERSVILLE	WV	26651	
WSEB-AM/WCKA-FM	189A MAIN ST.	SUTTON	WV	26601	
WEIR-AM	3578 PENNSYLVANIA AVENUE	WEIRTON	WV	26062	
WELC-AM	BOX 949	WELCH	WV	24801	
WXEE-AM	P. O. BOX 1340	WELCH	WV	24801	
WHAW-AM/WSSN-FM	P. O. BOX 980	WESTON	WV	26452	
WMOC-FM	124 HOLLAND AVENUE	WESTOVER	WV	26505	
WTRF-TV	96 16TH STREET	WHEELING	WV	26003	
WKWK-AM/WEEL-FM	P. O. BOX 2258	WHEELING	WV	26003	
WZMN-AM/FM	98 16TH STREET	WHEELING	WV	26003	
WWVA-AM/WOVK-FM	CAPITOL MUSIC HALL	WHEELING	WV	26003	
WHLY-FM	P.O. BOX 6462	WHEELING	WV	26003	
WSLW-AM	P. O. BOX 610	WHITE SULPHUR SPRINGS	WV	24986	
WBTH-AM/WXCC-FM	5 1/2 E. SECOND AVE.	WILLIAMSON	WV	25661	
BECKLEY REGISTER/HERALD	P. O. BOX R	BECKLEY	WV	25801	DAILY-SUNDAY
THE MORGAN MESSENGER	P. O. BOX 567	BERKELEY SPRINGS	WV	25411	W-WED.
BLUEFIELD DAILY TELEGRAPH	412 BLAND STREET	BLUEFIELD	WV	24701	DAILY-SUNDAY
BUCKHANNON RECORD-DELTA	7 NORTH LOCUST ST.	BUCKHANNON	WV	26201	WEEKLY-MON & WED.
CHARLESTON DAILY MAIL	1001 VIRGINIA ST. E.	CHARLESTON	WV	25301	DAILY-SUNDAY
CHARLESON GAZETTE	1001 VIRGINIA ST. E.	CHARLESTON	WV	25301	DAILY-SUNDAY
SPIRIT OF JEFFERSON ADVOCATE	210 N. GEORGE ST.	CHARLES TOWN	WV	25414	WEEKLY-THURSDAY
CLARKSBURG EXPONENT/TELEGRAM	324-326 HEWES AVE.	CLARKSBURG	WV	26301	DAILY-SUNDAY
CLAY COUNTY FREE PRESS	BOX 180, CHURCH ST.	CLAY	WV	25043	WEEKLY-TUESDAY
WIRT COUNTY JOURNAL	BOX 98	ELIZABETH	WV	26143	WEEKLY-WEDNESDAY
THE INTER-MOUNTAIN	520 RAILROAD AVENUE	ELKINS	WV	26241	DAILY
GUYANDOTTE VOICE	RT. 10	CHAPMANVILLE	WV	25508	WEEKLY-WEDNESDAY
THE CATHOLIC SPIRIT	1213 BYRON ST.	WHEELING	WV	26003	WEEKLY-FRIDAY
TIMES-WEST VIRGINIAN	QUINCY & OSDEN AVENUE	FAIRMONT	WV	25554	DAILY-SUNDAY
THE FOLLANSBEE REVIEW	P. O. BOX 591	WELLSBURG	WV	26070	WEEKLY-THURSDAY
THE PENDLETON TIMES	BOX 428, MAIN ST.	FRANKLIN	WV	26807	WEEKLY-THURSDAY
THE GLENVILLE DEMOCRAT	P. O. BOX 430	GLENVILLE	WV	26351	WEEKLY-THURSDAY
THE GLENVILLE PATHFINDER	P. O. BOX 430	GLENVILLE	WV	26351	WEEKLY-THURSDAY
MOUNTAIN STATESMAN	914 WEST MAIN ST.	BRAFTON	WV	26354	WEEKLY-TUES. THURS. & SAT
THE CALHOUN CHRONICLE	P. O. BOX 400	GRANTSVILLE	WV	26147	WEEKLY-THURSDAY
GRANTSVILLE NEWS	BOX L, NO. RIVER ST.	GRANTSVILLE	WV	26147	WEEKLY-THURSDAY
THE LINCOLN JOURNAL	BOX 308, 337 WALNUT ST.	HAMLIN	WV	25523	WEEKLY-WEDNESDAY
THE WEEKLY NEWS SENTINEL	BOX 308, 337 WALNUT ST.	HAMLIN	WV	25523	WEEKLY-WEDNESDAY
THE RITCHIE GAZETTE	BOX 215, 112-116 E. MAIN ST.	HARRISVILLE	WV	26362	WEEKLY-THURSDAY
HINTON DAILY NEWS	BOX 1000, 210 SECOND AVE	HINTON	WV	25951	WEEKLY-TUESDAY
THE HERALD DISPATCH	946 5TH AVENUE	HUNTINGTON	WV	25720	DAILY, SUNDAY
HURRICANE BREEZE	2813 MAIN ST.	HURRICANE	WV	25526	WEEKLY-THURSDAY
INDUSTRIAL NEWS	P. O. BOX 188	IAESER	WV	24844	WEEKLY-WEDNESDAY
MINERAL DAILY NEWS-TRIBUNE	24 ARMSTRONG ST.	KEYSER	WV	26726	DAILY
MOUNTAIN ECHO	24 ARMSTRONG ST.	KEYSER	WV	26726	WEEKLY-SATURDAY
PRESTON COUNTY JOURNAL	DRAWER A, 110 W. MAIN ST.	KINGWOOD	WV	26537	WEEKLY-MONDAY & THURSDAY

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP	REMARKS
WEST VIRGINIA DAILY NEWS	P. O. BOX 471, 200 S. COURT ST	LEWISBURG	WV	24901	DAILY
THE LOGAN BANNER	BOX 720, 435 STRATTON ST.	LOGAN	WV	25601	DAILY, SUNDAY
COAL VALLEY NEWS	60 AVENUE C	MADISON	WV	25130	WEEKLY-WEDNESDAY
THE POCAHONTAS TIMES	P. O. BOX 117, 810 SECOND AVE	MARLINTON	WV	24954	WEEKLY-THURSDAY
THE EVENING WEEKEND/JOURNAL	207 WEST KING STREET	MARTINSBURG	WV	25401	DAILY
CABELL RECORD	PO BOX 308, 1030 SMITH ST.	MILTON	WV	25541	WEEKLY-WEDNESDAY
THE MONTGOMERY HERALD	132 SO. MAIN ST.	MONTGOMERY	WV	25136	WEEKLY-THURSDAY
THE MOOREFIELD EXAMINER	132 SOUTH MAIN ST.	MOOREFIELD	WV	26836	WEEKLY-WEDNESDAY
DOMINION POST	GREER BLDG., SABRATON	MORGANTOWN	WV	26505	DAILY, SUNDAY
MOUNDSVILLE DAILY ECHO	P. O. BOX 369	MOUNDSVILLE	WV	26041	DAILY
THE MULLEN ADVOCATE	BOX 907	MULLENS	WV	25682	WEEKLY-THURSDAY
HANCOCK COUNTY COURIER	BOX 547	NEW CUMBERLAND	WV	26047	WEEKLY-THURSDAY
WETZEL CHRONICLE	P.O. BOX 289, 1100 3RD ST.	NEW MARTINSVILLE	WV	26155	WEEKLY-WEDNESDAY
FAYETTE TRIBUNE	417 MAIN STREET	DAK HILL	WV	25901	WEEKLY-MONDAY & THURSDAY
PARKERSBURG NEWS	519 JULIANA STREET	PARKERSBURG	WV	26101	DAILY-SUNDAY
PARKERSBURG SENTINEL	519 JULIANA STREET	PARKERSBURG	WV	26101	DAILY
PARSONS DVOCAE	412 MAIN ST.	PARSONS	WV	26287	WEEKLY-WEDNESDAY
PENNSBORO NEWS	P. O. BOX 368	PENNSBORO	WV	26415	WEEKLY-WEDNESDAY
GRANT COUNTY PRESS	47 SOUTH MAIN ST.	PETERSBURG	WV	26847	WEEKLY-WEDNESDAY
BARBOUR DEMOCRAT	PO BOX 455, 113 CHURCH ST.	PHILIPPI	WV	26416	WEEKLY-WEDNESDAY
THE PIEDMONT HERALD	P. O. BOX 168	PIEDMONT	WV	26750	WEEKLY-TUESDAY
INDEPENDENT HERALD	P. O. BOX 100, RT. 10E	PINEVILLE	WV	24874	WEEKLY-WEDNESDAY
POINT PLEASANT REGISTER	P. O. BOX 237	POINT PLEASANT	WV	25550	DAILY
PRINCETON TIMES	P.O. BOX 1199	PRINCETON	WV	24740	WEEKLY-THURSDAY
MEADOW RIVER POST	BOX 747	RAINELLE	WV	25962	WEEKLY-THURSDAY
THE RAVENSWOOD NEWS	BOX 10, RACE STREET	RAVENSWOOD	WV	26164	WEEKLY-WED. & SATURDAY
THE NEWS LEADER	BOX 591	RICHWOOD	WV	26261	WEEKLY-WEDNESDAY
THE JACKSON HERALD	P.O. BOX 31/117 COURT ST.	RIPLEY	WV	25271	WEEKLY-WEDNESDAY
HAMPSHIRE REVIEW	25 SOUTH GRAFTON	ROMNEY	WV	26757	WEEKLY-WEDNESDAY
PLEASANTS COUNTY LEADER	206 GEORGE STREET	ST. MARYS	WV	26170	WEEKLY-SATURDAY
ST. MARYS ORACLE	206 GEORGE STREET	ST. MARYS	WV	26170	WEEKLY-WEDNESDAY
THE SHINNSTON NEWS	223 PIKE	SHINNSTON	WV	26431	WEEKLY-WEDNESDAY
TYLER STAR NEWS/CTY JOURNAL	BOX 191, DIAMOND STREET	SISTERSVILLE	WV	26175	WEEKLY-WEDNESDAY
THE CARBIDER	BOX 8361	SOUTH CHARLESTON	WV	25308	
THE GULF TIMES		SOPHIA	WV	25921	
ROANE COUNTY REPORTER	341 MAIN STREET	SPENCER	WV	25276	WEEKLY-THURSDAY
TIMES-RECORD	341 MAIN ST.	SPENCER	WV	25276	WEEKLY-THURSDAY
THE NICHOLAS CHRONICLE	BOX 503, WEBSTER ROAD	SUMMERSVILLE	WV	26651	WEEKLY-THURSDAY
BRAXTON DEMOCRAT/CENTRAL	P. O. BOX 427	SUTTON	WV	26501	WEEKLY-FRIDAY
BRAXTON CITIZEN'S NEWS	501 MAIN	SUTTON	WV	26601	WEEKLY-MONDAY
PRESTON COUNTY NEWS	BOX 225, 226 WASHINGTON AVE	TERRA ALTA	WV	25764	WEEKLY-THURSDAY
THE MONROE WATCHMAN	P. O. BOX 179	UNION	WV	24983	WEEKLY-THURSDAY
WAYNE COUNTY NEWS	310 CENTRAL AVENUE	WAYNE	WV	25570	WEEKLY-THURSDAY
THE WEBSTER ECHO	BACK FORK STREET	WEBSTER SPRINGS	WV	26288	WEEKLY-WEDNESDAY
THE WEBSTER REPUBLICAN	BACK FORK STREET	WEBSTER SPRINGS	WV	26288	WEEKLY-WEDNESDAY

MAILING LIST

NAME	ADDRESS	CITY	STATE	ZIP	REMARKS
WEIRTON DAILY TIMES	114 LEE AVENUE	WEIRTON	WV	26062	DAILY
WELCH DAILY NEWS	125 WYOMING ST.	WELCH	WV	24801	DAILY
THE BROOKE NEWS	105 EIGHTH STREET	HELLSBURG	WV	26070	WEEKLY-THURSDAY
WESTON DEMOCRAT	BOX 31	WESTON	WV	26452	WEEKLY-TUESDAY
HERALD RECORD	202 EAST MAIN	WEST UNION	WV	25456	WEEKLY-TUESDAY
THE INTELLIGENCER	15TH/MAIN STREETS	WHEELING	WV	26003	DAILY
WHEELING NEWS-REGISTER	15TH/MAIN STREETS	WHEELING	WV	26003	DAILY, SUNDAY
WILLIAMSON DAILY NEWS	P. O. BOX 1660	WILLIAMSON	WV	25661	DAILY
THE PUTNAM DEMOCRAT	P. O. BOX 128	WINFIELD	WV	25213	WEEKLY-THURSDAY

REGISTRATION OF PUBLIC
AT
STATE FIRE COMMISSION MEETINGS

Fees for Services Rendered (Public Hearing) DATE: July 17, 1989 Charleston, WV

NAME	ADDRESS	REPRESENTING	PLEASE CHECK (X) IF YOU DESIRE TO MAKE A STATEMENT
Please print or write plainly			
Ben Greene	1624 Kanawha Blvd E Charleston, W.V. 25311	W.V.M.B.O.	X
Chris Abonitow	Ohio	WVCA	
William Roney	See above	W.V.M.B.O.	X

104 JUL 27 P 1:50
STATE FIRE ADMINISTRATION

000703

WEST VIRGINIA STATE FIRE COMMISSION

IN THE MATTER OF:

WEST VIRGINIA STATE FIRE COMMISSION
NEW RULE, SERIES 5
FEES FOR SERVICES RENDERED

Transcript of proceedings had and testimony adduced in the above-styled matter, taken before the West Virginia State Fire Commission in the West Virginia State Capitol Complex, Conference Center, Rooms C and D, Charleston, Kanawha County, West Virginia, on the 17th day of July, 1989, commencing at 1:10 p.m.

BEFORE: JAMES FIFE, Chairman
Member, State Fire Commission

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

I N D E X

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Ben Greene	4
William Raney	13
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P R O C E E D I N G S

CHAIRMAN FIFE: I am James Fife, Member of the State Fire Commission. I will be conducting the public hearing today.

For your information, this hearing will be recorded by a Court Reporter, and when you make your presentation please state your name, any organization you represent, and your address.

We have with us today the staff of the Fire Commission. They are Walter Smittle, Fire Marshal; Arnett Corley, Jr., State Fire Administrator; Paul Gill, Deputy Fire Marshal; Dana Davis, Attorney General's Office.

This hearing is for the purpose of receiving your public comments to proposed rules in three hearings. One is the fees for the services; two, for electricians license; and three, for supplemental Fire Code requirements.

You may present your comments today orally. We are going to limit it to 10 minutes for

your argument. You may file your written comments to the State Fire Commission no later than July 26, 1989 by 4:00 p.m.

Please forward your comments to the West Virginia State Fire Commission, Attention: Proposed Rules, 2100 Washington Street, East, Charleston, West Virginia 25305.

At this time I will open the hearings for comments on fees for services, and we have Ben Greene who wishes to make a statement.

MR. GREENE: Mr. Chairman, Members of the Commission, my name is Ben Greene. I represent the West Virginia Mining and Reclamation Association, 1624 Kanawha Boulevard, East, Charleston 25311.

We represent more than 350 member companies that are concerned about the proposed regulation establishing blaster fees as promulgated on whatever date it was; I believe it was May 19, 1989, under the authority of House Bill 21-0-1.

Interestingly, as you research this

particular subject you find Senate Bill No. 2, which was also passed by this past session of the Legislature, and it talks about several things that we think are germane to our testimony here this afternoon.

Senate Bill 2 is the consolidation of state government, and it provides among other things that we promote the execution of laws for the effective management of the executive branch; that we consolidate; that we promote economy; that we coordinate agencies and functions of state government; No. 5, that we consolidate or combine those agencies having similar or complimentary functions under a single head; and No. 6, we eliminate the duplication of effort.

We think the proposed fee schedule goes in direct conflict to all those findings which were also passed by the 1989 Legislature.

This testimony here today will be specifically to the effect of the blasters as they

are employed throughout the mining industry all over the State of West Virginia.

It may surprise the Fire Commission to know that according to the Department of Energy Records there are 788 certified blasters at the current time; there are 16,537 certified underground mine shot firers; and there are 14,289 coal mine electricians, which is another part of this hearing, that are impacted or could be impacted by this fee schedule.

This is a grand total of 31,614 individuals who have already been tested, who have already been screened, and they have been certified by another agency of state government, in this case the Department of Energy.

They are also regulated in addition to the Department of Energy by MSHA, by Federal Firearms and Tax, by Transportation, and three or four other agencies. Nobody at this point other than the Department of Energy has asked them to send

in \$50.

If you take those numbers and if you take it at \$50 per year per individual, our calculations very roughly give you \$1,580,700 of windfall revenue for the State Fire Commission. We think that is far in excess of anything that you had in mind. We know that is far in excess of anything that the Legislature had in mind, and we take strong exception to that here today.

The annual fee of \$50 per person represents a significant economic burden to the individual who has already paid the Department of Energy \$32.50 in order to be certified under that program, and I might add that in addition to the \$32.50 that is good for a period of three years to begin with.

As I read your proposed emergency regulations, you are saying one year, \$50, send us your card, and we will send you your renewal.

The emergency and proposed

regulation are being presented as being a mandatory collection. When you read the Bill 21-0-1, it is a very permissive bill in that the Fire Marshal may -- the word may is very permissive in this particular instance; it is not a mandatory bill.

I might note that the West Virginia Department of Energy established two years ago a program of certification, one that has its founding in the Federal Surface Mining Act, which mandate that any state that has primacy must have a blasting certification program.

I might further point out that the Board of Miner Training Education and Certification went to great lengths and considerable expense to develop a blaster certification program that makes these people come in, makes them be tested both hands on as well as the written test before they are certified.

We find nothing in the proposed emergency regulations that the Fire Marshal's office

plans to do other than collect at this point the \$50 fee. We recognize that in order to get a blaster certification through the Department of Energy you have to have the Fire Marshal card, but heretofore that has always been a formality, and if you had not been convicted of a felony and did not show up on the State Police criminal identification bureau records in any form, your card generally was back in the mail in a few days and then was presented to the Department of Energy.

We have also several other questions that we are not clear on as the regulations were promulgated. For example, if a truck driver picks up from the bulk loading bin ammonia nitrate and hauls it around on the job, is he covered? Does he need your certification? Does he need your \$50 card?

If you tell me yes, I am going to tell you then he is going to take the ammonia nitrate and put it in the hydroseeder, and it will

be used as fertilizer in the reseeding process, and where does that leave him so far as the Fire Marshal's office is concerned?

Now he may go ahead and treat that material with diesel fuel and cap it with a cap and then it becomes an explosive. The boys that are drilling on the job may take their shovels and see that the ammonia nitrate gets into the proper hole before it is properly treated, and are they covered, and do they need your blasting certification fee, or is that covered by somebody that is under the supervision of somebody that must have the certification?

Those are a couple of unanswered questions that we are not clear on. Your regulation strictly goes to the fees. They do not expand beyond that point. It is very unclear as to whether the coal industry will be operating out of compliance or how that particular subject will be handled.

We think that some of the concerns that we have talked about here -- and one of my colleagues will follow later on on the use of the electricians certification program as well -- but there are many, many, many coal electricians that are employed by the companies, and they do from time to time contract work or subcontract work at other areas; and, again, if we interpret your current emergency regulations, there appears to be a need that they be certified at that particular mine; whereas in their own employ and own work place they would not be.

Overall, we strongly object to this additional burden being placed on the coal industry. As I previously noted, we are governed and covered by about five other federal and state agencies. If you take the reorganization of state government as hard, here is a prime example of the whole system running amuck when you have people that are already certified, bona fide, covered, and again are being

asked merely to submit an additional \$50 fee for what appears to have already been done.

We urge Mr. Chairman, the Fire Commission, to re-think these regulations. If you feel that it is absolutely necessary, we ask you to take full consideration of the word may that is in the House Bill 21-0-1; we ask you to give consideration to at least a three year period of time so it can be germane with and in concert with that quality that is now present in the certified blaster program that is administered by the Department of Energy; and, finally, we will take whatever steps necessary in the next Legislative session to see if we can't bring a consolidation of these programs together and have one agency responsible so this thing can be truly coordinated.

We appreciate the opportunity to testify here. I would be happy to respond to any questions should there be any.

CHAIRMAN FIFE: We have a Mr. William

Raney.

MR. RANEY: Mr. Fife, I am Bill Raney. I am Vice President of West Virginia Mining Reclamation Association, and certainly Mr. Greene and I share his concern, as does Mr. Chris Hamilton of the Coal Association.

I want to appear today as an appointed member, not speaking on behalf of the Board of Miner Training Education and Certification, but as an industry representative representing the surface mining industry, and I am joined by Mr. Hamilton who represents the underground mining operators.

For the last five years that Board which is made up of six appointed members has taken a great deal of time, expense and effort to develop a blaster certification program for surface mine blasters in West Virginia that is consistent with the federal law and the regulations as well as consistent with a number of other states that are

involved in the surface extraction of coal.

We are currently developing and revising a shot firers' certification program which involves an examination, and between the development of the blasters and the more recent shot firers which is underground mining there was a great deal of revision done to the coal mine electricians' certification program.

For years the federal government would not absolutely recognize the West Virginia certification program for coal mine electricians, and about four years ago that endorsement was granted, and the Department of Energy is now the sole certifying agency for coal mine electricians.

My concern as a Board member -- and again not as an official; I am not giving the position of the Board, because that is six voices -- but as an industry representative I am concerning in the reading of House Bill 21-0-1 as it relates to electricians, that there is not an exemption for

coal mine electricians, that we have a clear duplication of certification efforts.

If I am wrong in my reading of that, I would appreciate being corrected. However, it is a very stringently controlled and monitored program for coal mine electricians, because we deal with such high voltage, and we deal with it on such a routine.

The training, monitoring and supervision of that program is recognized throughout the nation, and we ask that the Fire Commission and the Fire Marshal certainly take that into consideration and see if it requires renewals of licenses for electricians as well as electrician apprentices.

As it relates to blasters and shot firers, Mr. Greene has expressed the concern of the industry. We are having a Board meeting on Friday to take up this very subject because of the discussions with Mr. Gill and indirectly with Mr.

Smittle have indicated that there will be likely be a test to examine the competency of people handling, using, selling, transporting explosives; and we ask as a Board as well as an industry that the competency tests that are in place written as well as practical be thoroughly reviewed and looked at prior to the Fire Marshal reinventing the wheel, so to speak.

We feel that they test the practical knowledge and skills of people that use explosives, and we feel that it very clearly defines those that need those skills.

I appreciate the opportunity to be here, and I would be glad to answer any questions.

CHAIRMAN FIFE: Thank you. Is there anybody else that wishes to speak concerning the fees?

If not . . .

(Whereupon, at 1:26 p.m.,
the hearing was concluded.)

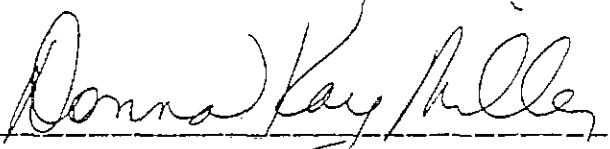
REPORTER'S CERTIFICATE

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

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

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

My Commission expires November 4,
1992.



Certified Court Reporter

Notary Public



STATE OF WEST VIRGINIA
BOARD OF MINER TRAINING, EDUCATION, AND CERTIFICATION
CHARLESTON

WV FIRE COMM
STATE FIRE MARSHAL

25305

July 25, 1989

RECEIVED
JUL 26 1989

Mr. Walter Smittle
State Fire Marshal
Office of the State Fire Marshal
State Capitol Complex
Charleston, West Virginia 25305

Dear Mr. Smittle:

The Board of Miner Training, Education, and Certification of the State of West Virginia, at its July 21st meeting made the following recommendation in relation to state-permitted electricians and blasting personnel:

"By virtue of these programs (developed by the MTEC Board pursuant to Chapter 22, Article 9 of the West Virginia Code), the Board recommends that the regulations proposed by the State Fire Commission as 87 CSR 2 (electricians), and 87 CSR 5 (fees), specifically exclude personnel certified by the Department of Energy as surface blasters, underground shot firers, apprentice electricians, or certified electricians from any fees and requirements set forth in the proposed regulations for work performed in coal mining operations."

With such authority, the Board has expended a great deal of time in the development of these widely acclaimed and recognized certification programs. The Board feels the recommendation is justified, and further feels the Department of Energy provides adequate inspections and monitoring of these professional disciplines to maintain the level of quality necessary for safe operations. This effort will be duplicated by both the West Virginia Department of Energy, and the State Fire Marshal's office in the issuance of certification(s) for blasters (surface and underground), and electricians. This is not to be construed to exclude activities outside the coal industry, as performed by those individuals possessing certifications issued pursuant to the requirements of Chapter(s) 22, 22A or 22B of the West Virginia Code.

Your prompt attention to this recommendation would be most appreciated.

Sincerely,

Bart B. Lay Jr.

Bart B. Lay, Jr.,
Chairman

cc: George E. Dials, Commissioner



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JUL 26 1989

WV FIRE COMM
STATE FIRE MARSHAL

WEST VIRGINIA MINING AND RECLAMATION ASSOCIATION 1624 KANAWHA BOULEVARD, EAST • CHARLESTON, WEST VIRGINIA 25311 • (304) 346-5318
July 26, 1989

Mr. Walter Smittle, III
State Fire Marshal
State of West Virginia
2100 Washington Street, East
Charleston, West Virginia 25305

Dear Walter:

Attached is a copy of the comments I offered to the proposed regulations at the public hearing on July 17, 1989. As I have previously indicated, these are forwarded on behalf of the more than 350 member companies of the Association which are directly and indirectly involved in the mining of coal of West Virginia.

I very much appreciate your attention to the concerns of the coal industry relative to the proposed regulations for licensing explosive users and handlers, as well as coal mine electricians. It is a very important matter to the coal mining and explosive companies in the West Virginia business community.

If I or any member of the Association should be of any assistance to you or your staff do not hesitate to notify me immediately.

Sincerely,

Benjamin C. Greene
President

Attachment

cc: Honorable George Farley
Gary White, WV Coal Association

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Benjamin C. Greene President	Roy G. Lockard Chairman	R. Donald Cussins Secretary
William B. Raney Vice-President	Paul F. Hutchins First Vice-Chairman	Donald K. Cooper Treasurer
	Kenneth G. Woodring Second Vice-Chairman	Bernie E. Dearth, Jr. Chairman-Associate Division

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TESTIMONY BEFORE THE STATE FIRE COMMISSION'S PUBLIC HEARING
REGARDING REGULATIONS PROPOSED UNDER AUTHORITY HOUSE BILL
2101 AND ITS EFFECT ON THE STATE'S COAL INDUSTRY---

JULY 17, 1989 -- 1:00 P.M. -- STATE CAPITOL COMPLEX

Mr. Fife, my name is Ben Greene, I am president of the West Virginia Mining & Reclamation Association. We represent some 350 separate companies involved directly and indirectly in the mining of coal in West Virginia. The following comments are offered on behalf of those members.

According to the Department of Energy statistical records, surveyed just this morning, there are:

Seven-hundred-eighty-eight (788) certified surface mine blasters.

Sixteen-thousand-five-hundred-thirty-seven (16,537) certified underground mine shot firers.

Fourteen-thousand-two-hundred-eighty-nine (14,289) coal mine electricians.

That is a total of 31,614 individuals who have been tested, screened and certified by the West Virginia Department of Energy to use explosives and/or perform electrical work in the coal mines of our state.

This total number relates only to individuals, not to the large number of companies which must store explosives for use and/or sale.

At fifty dollars per year, per individual, that is a \$1,580,700 "windfall" of revenue for the Fire Marshal's Office.

One of the the concerns of the coal industry is the conflict presented by these regulations and the purported plans of the Fire Marshal's Office to establish "competency" tests for persons selling, using and/or storing explosives. Those include:

1. The annual fee of \$50 per person presents a significant economic burden to the individuals certified as blasters in the mining industry. Heretofore, the Fire Marshal's permit was issued to persons who had no felony record. It did not cost anything and was good for three (3) years.

Ben Greene before the Fire Commission
July 17, 1989
Page Two

It was basically enforced by the Department of Energy, upon a miner's application to take the certification exam, which is required by federal, as well as state mining laws.

The emergency and proposed regulations are being presented as mandatory collection of a \$50 fee. Actually, the new House Bill 2101 is permissive in that it says such fees "MAY" be established. It is not mandatory!

2. West Virginia's Department of Energy established, two years ago, a program of certification for surface mine blasters. It has been described as one of the best in the nation. It tests the practical knowledge and skills of persons using explosives on mine sites in the state.

A great deal of work, validation, sampling and drafting was performed under the authority of the Board of Miner Training, Education and Certification. Considerable expense was incurred by the Board and the Department in order to insure the test was fair, equitable and challenging.

Now the Fire Marshal's Office indicates they wish to establish some means of testing those persons using, storing or selling explosives.

That is in direct conflict with the Department of Energy, the work of the Board of Miner Training, Education and Certification and presents a major, unnecessary burden on the individuals. We do not feel the current test can be improved upon and the Fire Marshal's Office should not attempt duplication. It would be a ridiculous expenditure of public funds.

3. The terms of these new Fire Marshal licenses for explosives are inconsistent with the Department of Energy's permit terms. DoE issues surface blaster's certifications for a period of three years. It requires the purchase of a study guide/reference manual for \$17.50 and an application fee of \$15.

Now the Fire Marshal wants the cards, previously good for three years, renewed every year and they want \$50 each year from the individuals.

4. There are numerous problems created because the extent of need is not clearly identified. Do the persons driving the supply trucks need to be individually licensed? Does the bulk truck driver, carrying ANFO, need a license? Is it fertilizer or explosive? Do the men filling the boreholes need a license? Those limits are already clearly defined by

Ben Greene before the Fire Commission
July 17, 1989
Page Three

the Department of Energy and their certification programs.

5. The purpose of the Fire Marshal's license is certainly not clear. It never has been clear. The only monitoring and enforcement has always been done by the Department of Energy, whose regulations require a State Fire Marshal's license prior to being certified as a surface blaster.

6. Also, as it pertains to the coal industry, the use, storage, sale, transportation and handling of explosives has been, and continues to be controlled by several federal agencies, in addition to the state's Department of Energy. The Bureau of Alcohol, Tobacco & Firearms (ATF), the Mine Safety & Health Administration (MSHA), the Department of Transportation (DoT), the Environmental Protection Agency (EPA) and the state's Hazardous Waste Division.

With such controls in place, any additional licensing seems unnecessary when a simple inquiry to one of these agencies would suffice in the event a Fire Marshal's investigation is required.

The conflicts noted above are equally true in the cases of underground mining "shot firers" and coal mine electricians. Each speciality is subjected to Department of Energy testing and certification. Each program is under the authority and findings of the Board of Miner Training, Education and Certification. There is no reason to duplicate that effort. The State Fire Marshal should accept the Department of Energy's programs and certifications. Duplication of this effort is totally unsupported and unwarranted!

We suggest the Fire Commission's regulations exempt any persons certified by the Department of Energy as surface mine blasters and/or underground shot firers from any of the requirements set forth in 67 CSR 5.

7. Each of the concerns noted for the licensing of explosive handlers and users in the coal industry is equally applicable to the State Fire Marshal's treatment of coal mine electricians.

Coal mine electricians are certified by the Department of Energy and sanctioned by the federal Mine Safety & Health Administration (MSHA). They must meet minimum training requirements, pass examinations and undergo strict apprentice supervision.

Ben Greene before the Fire Commission
July 17, 1989
Page Four

According to HB 2101 and the proposed regulations, the only coal mine electricians exempt are those that "are employees" of companies. A majority of the coal mine electricians in this state are not strictly employees of the companies for which they perform electrical work which is routinely required by federal and state mining laws.

For these professionals, a duplication of examination and monitoring, for work in coal mine operations, is unnecessary and unwarranted.

We therefore recommend the following amendment to the 87 CSR 2 proposed regulations. On page three, section 2.06, a new subsection be added as (F), to read as follows:

- (F) Any person who is authorized and recognized by the West Virginia Department of Energy to perform electrical work at at any coal mine operation.

Overall, we object to this additional burden on the coal miners of this state, as well as the coal mining and explosive companies. We strongly suggest that the provisions of HB 2101, relevant to coal mining, be repealed and the Department of Energy be granted full state authority for overseeing the activities of the coal industry professions. Senate Bill 2, passed by the 1989 Special Legislative Session, goes to the very core of this particular situation (see attached excerpt of SB 2)

Mr. Fife, I will be happy to address any questions that you or the Fire Marshal might have regarding the coal industry's concern. Thank you.

Further, I can be contacted at the West Virginia Mining and Reclamation Association, 1624 Kanawha Boulevard, East; Charleston, WV 25311; 346-5318 and would be pleased to offer any assistance you deem helpful.

Final copy of comments hand delivered to the Fire Marshall's Office on July 26, 1989 by William B. Raney, Vice President of the West Virginia Mining & Reclamation Association.

Respectfully submitted,



Benjamin C. Greene, President



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JUL 26 1989

WV FIRE COMM
STATE FIRE MARSHAL

WEST VIRGINIA MINING AND RECLAMATION ASSOCIATION 1624 KANAWHA BOULEVARD, EAST • CHARLESTON, WEST VIRGINIA 25311 • (304) 346-5318

July 27, 1989

Mr. Walter Smittle, III
State Fire Marshal
State of West Virginia
2100 Washington Street, East
Charleston, West Virginia 25305

Dear Walter:

Attached is a revised copy of my comments offered to the proposed regulations at the public hearing on July 17, 1989. This revised copy is forwarded because I had neglected to attach the pertinent excerpt from SB 2, which was referenced in the comments on page 4. This attachment is the only revision to the comments submitted to you yesterday, July 26, 1989.

Again, I wish to express my appreciation for your attention to the critical concerns of the many West Virginia coal and explosive companies, as well as their employees.

If I or any member of the Association should be of any assistance to you or your staff do not hesitate to notify me immediately.

Sincerely,

Benjamin C. Greene
President

Attachment

cc: Honorable George Farley
Gary White, WV Coal Association

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William B. Raney
Vice-President

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WEST VIRGINIA MINING AND RECLAMATION ASSOCIATION 1624 KANAWHA BOULEVARD, EAST • CHARLESTON, WEST VIRGINIA 25311 • (304) 346-5318

July 26, 1989

Mr. Walter Smittle, III
 State Fire Marshal
 State of West Virginia
 2100 Washington Street, East
 Charleston, West Virginia 25305

Dear Walter:

Attached is a copy of the comments I offered to the proposed regulations at the public hearing on July 17, 1989. As I have previously indicated, these are forwarded on behalf of the more than 350 member companies of the Association which are directly and indirectly involved in the mining of coal of West Virginia.

I very much appreciate your attention to the concerns of the coal industry relative to the proposed regulations for licensing explosive users and handlers, as well as coal mine electricians. It is a very important matter to the coal mining and explosive companies in the West Virginia business community.

If I or any member of the Association should be of any assistance to you or your staff do not hesitate to notify me immediately.

Sincerely,

Benjamin C. Greene
 President

Attachment

cc: Honorable George Farley
 Gary White, WV Coal Association

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 G. W. Ramsburg—Clarksburg
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 E. F. Surgeon—Louisville, KY
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Benjamin C. Greene
 President

William B. Raney
 Vice-President

TESTIMONY BEFORE THE STATE FIRE COMMISSION'S PUBLIC HEARING
REGARDING REGULATIONS PROPOSED UNDER AUTHORITY HOUSE BILL
2101 AND ITS EFFECT ON THE STATE'S COAL INDUSTRY---

JULY 17, 1989 -- 1:00 P.M. -- STATE CAPITOL COMPLEX

Mr. Fife, my name is Ben Greene, I am president of the West Virginia Mining & Reclamation Association. We represent some 350 separate companies involved directly and indirectly in the mining of coal in West Virginia. The following comments are offered on behalf of those members.

According to the Department of Energy statistical records, surveyed just this morning, there are:

Seven-hundred-eighty-eight (788) certified surface mine blasters.

Sixteen-thousand-five-hundred-thirty-seven (16,537) certified underground mine shot firers.

Fourteen-thousand-two-hundred-eighty-nine (14,289) coal mine electricians.

That is a total of 31,614 individuals who have been tested, screened and certified by the West Virginia Department of Energy to use explosives and/or perform electrical work in the coal mines of our state.

This total number relates only to individuals, not to the large number of companies which must store explosives for use and/or sale.

At fifty dollars per year, per individual, that is a \$1,580,700 "windfall" of revenue for the Fire Marshal's Office.

One of the the concerns of the coal industry is the conflict presented by these regulations and the purported plans of the Fire Marshal's Office to establish "competency" tests for persons selling, using and/or storing explosives. Those include:

1. The annual fee of \$50 per person presents a significant economic burden to the individuals certified as blasters in the mining industry. Heretofore, the Fire Marshal's permit was issued to persons who had no felony record. It did not cost anything and was good for three (3) years.

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It was basically enforced by the Department of Energy, upon a miner's application to take the certification exam, which is required by federal, as well as state mining laws.

The emergency and proposed regulations are being presented as mandatory collection of a \$50 fee. Actually, the new House Bill 2101 is permissive in that it says such fees "MAY" be established. It is not mandatory!

2. West Virginia's Department of Energy established, two years ago, a program of certification for surface mine blasters. It has been described as one of the best in the nation. It tests the practical knowledge and skills of persons using explosives on mine sites in the state.

A great deal of work, validation, sampling and drafting was performed under the authority of the Board of Miner Training, Education and Certification. Considerable expense was incurred by the Board and the Department in order to insure the test was fair, equitable and challenging.

Now the Fire Marshal's Office indicates they wish to establish some means of testing those persons using, storing or selling explosives.

That is in direct conflict with the Department of Energy, the work of the Board of Miner Training, Education and Certification and presents a major, unnecessary burden on the individuals. We do not feel the current test can be improved upon and the Fire Marshal's Office should not attempt duplication. It would be a ridiculous expenditure of public funds.

3. The terms of these new Fire Marshal licenses for explosives are inconsistent with the Department of Energy's permit terms. DoE issues surface blaster's certifications for a period of three years. It requires the purchase of a study guide/reference manual for \$17.50 and an application fee of \$18.

Now the Fire Marshal wants the cards, previously good for three years, renewed every year and they want \$50 each year from the individuals.

4. There are numerous problems created because the extent of need is not clearly identified. Do the persons driving the supply trucks need to be individually licensed? Does the bulk truck driver, carrying ANFO, need a license? Is it fertilizer or explosive? Do the men filling the boreholes need a license? Those limits are already clearly defined by

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the Department of Energy and their certification programs.

5. The purpose of the Fire Marshal's license is certainly not clear. It never has been clear. The only monitoring and enforcement has always been done by the Department of Energy, whose regulations require a State Fire Marshal's license prior to being certified as a surface blaster.

6. Also, as it pertains to the coal industry, the use, storage, sale, transportation and handling of explosives has been, and continues to be controlled by several federal agencies, in addition to the state's Department of Energy. The Bureau of Alcohol, Tobacco & Firearms (ATF), the Mine Safety & Health Administration (MSHA), the Department of Transportation (DOT), the Environmental Protection Agency (EPA) and the state's Hazardous Waste Division.

With such controls in place, any additional licensing seems unnecessary when a simple inquiry to one of these agencies would suffice in the event a Fire Marshal's investigation is required.

The conflicts noted above are equally true in the cases of underground mining "shot firers" and coal mine electricians. Each speciality is subjected to Department of Energy testing and certification. Each program is under the authority and findings of the Board of Miner Training, Education and Certification. There is no reason to duplicate that effort. The State Fire Marshal should accept the Department of Energy's programs and certifications. Duplication of this effort is totally unsupported and unwarranted!

We suggest the Fire Commission's regulations exempt any persons certified by the Department of Energy as surface mine blasters and/or underground shot firers from any of the requirements set forth in 87 CSR 5.

7. Each of the concerns noted for the licensing of explosive handlers and users in the coal industry is equally applicable to the State Fire Marshal's treatment of coal mine electricians.

Coal mine electricians are certified by the Department of Energy and sanctioned by the federal Mine Safety & Health Administration (MSHA). They must meet minimum training requirements, pass examinations and undergo strict apprentice supervision.

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According to HB 2101 and the proposed regulations, the only coal mine electricians exempt are those that "are employees" of companies. A majority of the coal mine electricians in this state are not strictly employees of the companies for which they perform electrical work which is routinely required by federal and state mining laws.

For these professionals, a duplication of examination and monitoring, for work in coal mine operations, is unnecessary and unwarranted.

We therefore recommend the following amendment to the 87 CSR 2 proposed regulations. On page three, section 2.06, a new subsection be added as (F), to read as follows:

- (F) Any person who is authorized and recognized by the West Virginia Department of Energy to perform electrical work at at any coal mine operation.

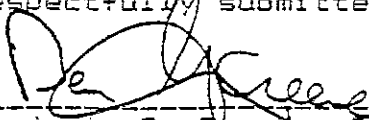
Overall, we object to this additional burden on the coal miners of this state, as well as the coal mining and explosive companies. We strongly suggest that the provisions of HB 2101, relevant to coal mining, be repealed and the Department of Energy be granted full state authority for overseeing the activities of the coal industry professions. Senate Bill 2, passed by the 1989 Special Legislative Session, goes to the very core of this particular situation (see attached excerpt of SB 2)

Mr. Fife, I will be happy to address any questions that you or the Fire Marshal might have regarding the coal industry's concern. Thank you.

Further, I can be contacted at the West Virginia Mining and Reclamation Association, 1624 Kanawha Boulevard, East; Charleston, WV 25311; 346-5318 and would be pleased to offer any assistance you deem helpful.

Final copy of comments hand delivered to the Fire Marshall's Office on July 26, 1989 by William B. Raney, Vice President of the West Virginia Mining & Reclamation Association.

Respectfully submitted,


Benjamin C. Greene, President

federal-state programs or federally delegated programs; specifying the appointment, term, qualifications, oath, bond and compensation of administrators of all transferred and incorporated agencies and boards; authorizing dual office-holding; providing for the transfer of records, property and personnel; providing for a report to the Legislature concerning further reorganization of the executive branch of state government, providing operative date for implementation; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new chapter, designated chapter five-f, to read as follows:

CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE

BRANCH OF STATE GOVERNMENT.

ARTICLE I. GENERAL PROVISIONS.

§5F-1-1. Legislative findings and declarations.

1 (a) The Legislature hereby finds and declares that
2 state government must be made more responsive to
3 the citizens of the state; that the various agencies and
4 boards responsible for the execution of the laws of this
5 state must be improved; that more effective management of the executive branch of state government
6 must be achieved; that the efficiency of the operations
7 of the agencies and boards of state government must
8 be increased; and that in view of the financial crisis
9 facing the state of West Virginia, it is essential to
10 compel a curtailment and reduction of governmental
11 expenses and hold them within reasonable bounds
12 consistent with the economical and efficient administration of governmental services and to ensure the
13 strictest economy in the matter of governmental
14 expenditures to the end that agencies and boards of
15 government may not be compelled to abdicate their
16 responsibilities or cease to function but that in
17 carrying out their responsibilities they shall not place
18 upon the public any expense which is not necessary.

21 The Legislature further hereby finds and declares that
22 in order to achieve these purposes, it is essential to
23 reorganize the executive branch of state government
24 so as to:

25 (1) Promote the execution of the laws, the more
26 effective management of the executive branch and of
27 its agencies, boards and functions; and the expeditious
28 administration of the public business;

29 (2) Reduce expenditures and promote economy to
30 the fullest extent consistent with the efficient
31 operation of state government;

32 (3) Increase the efficiency of the operations of state
33 government to the fullest extent practicable;

34 (4) Group, coordinate and consolidate agencies and
35 functions of state government, as nearly as may be,
36 according to purposes;

37 (5) Consolidate or combine those agencies having
38 similar or complementary functions under a single
39 head, and, after observing and analyzing the operation
40 of such consolidated or combined agencies for a period
41 of time, abolish by legislative act, where legislative
42 action is required, such agencies or functions thereof
43 as are determined not to be necessary or desirable for
44 the efficient conduct of the state government;

45 (6) Eliminate duplication of effort;

46 (7) Provide for appropriate legislative oversight as
47 mandated in the constitution of this state; and

48 (8) Provide for a spirit of cooperation and unity
49 between the executive and legislative branches in
50 addressing and developing solutions to the problems
51 facing the state.

52 (b) This chapter is enacted in view and because of
53 the findings and declarations set forth in subsection (a)
54 of this section and shall be construed in the light
55 thereof.