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WEST VIRGINIA LEGISLATURE  
*Legislative Rule-Making Review Committee*

2002 DEC 17 A 9 58

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SECRETARY OF STATE

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December 16, 2002

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NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Joe Manchin, Secretary of State, State Register

TO: Arnett B. Corley  
Fire Commission, WV State  
1207 Quarrier Street  
Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Fire Department Rescue Services, 87CSR6**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule
  - (a) as originally filed
  - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: State Fire Commission

Subject: Fire Department Rescue Services, 87CSR6

PERTINENT DATES

Filed for public comment: May 6, 2002  
Public comment period ended: June 7, 2002  
Filed following public comment period: July 19, 2002  
Filed LRMRC: July 19, 2002  
Filed as emergency:

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2002 AUG 30 A 10:01  
OFFICE OF THE SECRETARY OF STATE  
COMMONWEALTH OF VIRGINIA

Fiscal Impact: \$65,000 increase

ABSTRACT

The proposed rule is new. The following is a section-by-section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 defines terms.

Section 3 relates to minimum requirements for fire department rescue services. It requires departments to establish written standard operating procedures consistent with one of the following operational levels: awareness; operations; or technician.

This section also requires a fire department to establish operational procedures that do not exceed its identified level of capability. It also requires a fire department to provide minimum training and continuing education and to document all required training.

Section 4 relates to rescue categories and operational levels. This section provides functions which may be provided at each of the three levels at structural collapse incidents, rope rescue incidents, confined space incidents, vehicle or machinery rescue incidents, water rescue incidents (which are categorized as dive, ice and swift water), lost person search and rescue incidents, trench and evacuation rescue incidents, cave rescue incidents and mine rescue incidents.

Section 5 relates to required training for rescue activities. It provides that the Fire Commission has jurisdiction for the approval and recognition of all fire department rescue training and services.

Section 6 relates to implementation. It sets forth an implementation schedule over the next five years for the three levels. After the phase-in, departments are required to meet the training requirements of the various levels at the time they begin to offer services.

Section 7 relates to notification of services provided. It requires the fire departments to report annually to the State Fire Marshal regarding the services they provide.

#### AUTHORITY

Statutory authority: W.Va. Code, §29-3-5, which provides, in part, as follows:

(a) The state fire commission shall have the power to promulgate, amend and repeal regulations for the safeguarding of life and property from the hazards of fire and explosion pursuant to the provisions of chapter twenty-nine-a of this code. Such regulations, amendments or repeals thereof shall be in accordance with standard safe practice as embodied in widely recognized standards of good practice for fire prevention and fire protection and shall have the force and effect of law in the several counties,

municipalities and political subdivisions of the state...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

Yes.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has technical modifications to suggest.