

**WEST VIRGINIA  
SECRETARY OF STATE  
BETTY IRELAND  
ADMINISTRATIVE LAW DIVISION**

Form #3

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: WV State Fire Commission TITLE NUMBER: 87

CITE AUTHORITY: W. Va. Code §29-3-5b

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 RULE BEING PROPOSED: 7

TITLE OF RULE BEING PROPOSED: Standards for the Certification and Continuing Education of  
Municipal, County, and Other Public Sector Building Code Officials,  
Building Code Inspectors and Plans Examiners.

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.

  
Authorized Signature

**QUESTIONNAIRE**

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: July 29, 2005

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia State Fire Commission  
1207 Quarrier Street, Second Floor  
Charleston, WV 25301  
304-558-2191

LEGISLATIVE RULE TITLE: Standards for the Certification and Continuing Education of  
Municipal, County, and Other Public Sector Building Code  
Officials, Building Code Inspectors and Plans Examiners

1. Authorizing statute(s) citation W Va Code §29-3-5b(c)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
June 28, 2005

b. What other notice, including advertising, did you give of the hearing?  
Copies were provided to the West Virginia Code Officials Association.

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
July 28, 2005

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.  
Attached \_\_\_\_\_ No comments received       x

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

July 29, 2005

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- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Anthony Carrico, Deputy State Fire Marshall

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WV State Fire Commission  
1207 Quarrier Street, Second Floor  
Charleston, WV 25301

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Tel. 304-558-2191, Fax. 304-558-2537

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acarrico@wvfiremarshal.org

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- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Doren Burrell, Senior Assistant Attorney General

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Office of the Attorney General  
State Capitol, Room E-26  
Charleston, WV 25305

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Tel. 304-558-2522, Fax 304-558-2525

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doren.burrell@wvago.gov

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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.

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b. Date of hearing or comment period:

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

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d. Attach findings and determinations and reasons:

Attached 

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**WEST VIRGINIA STATE FIRE COMMISSION**

**STANDARDS FOR THE CERTIFICATION  
AND CONTINUING EDUCATION OF MUNICIPAL,  
COUNTY, AND OTHER PUBLIC SECTOR BUILDING CODE  
OFFICIALS, BUILDING CODE INSPECTORS AND PLANS EXAMINERS**

**Title 87, Series 7**

**BRIEF SUMMARY OF PROPOSED RULE**

The rule establishes the requirements for certification of local government employees responsible for the review of building plans, on site inspections and general administration of the State Building Code. The rule defines the qualifications required as well as the process for application to be certified as a building code official, building code plans examiner or building code inspector in the State of West Virginia

The rule establishes a process for the certification of such officials. Certifications are valid for three years and then must be renewed under the provisions of the rule. The rule also defines annual continuing education requirements for these officials, examiners and inspectors.

**WEST VIRGINIA STATE FIRE COMMISSION**  
**STANDARDS FOR THE CERTIFICATION**  
**AND CONTINUING EDUCATION OF MUNICIPAL,**  
**COUNTY, AND OTHER PUBLIC SECTOR BUILDING CODE**  
**OFFICIALS, BUILDING CODE INSPECTORS AND PLANS EXAMINERS**  
**Title 87, Series 7**

**STATEMENT OF CIRCUMSTANCES FOR PROPOSED RULE**

West Virginia Code §29-3-5b(c) authorizes the State Fire Commission to establish state standards and fee schedules for the certification and regulation of persons who will conduct inspections relating to the State Building Code (previously promulgated by the Commission at 87 CSR 4 ). This rule establishes the standards for certification of employees of local governments who will review building plans, inspect construction projects and administer the local enforcement of State Building Code. (Private home inspectors will be regulated under a separate rule.)

Currently there are no standards relating to the qualifications such public officials should have to hold such positions. This rule sets out the basic certification requirements and also requires annual continuing education concerning state and international building codes

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Stds for Certif. & Cont. Educ. of Municipal, Co., etc. Building Code Officials, etc.

Type of Rule:  Legislative  Interpretive  Procedural

Agency: West Virginia State Fire Commission

Address: 1207 Quarrier Street, Second Floor  
Charleston, WV 25301

Phone Number: 304-558-2191 Email: \_\_\_\_\_

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The fiscal impact should be minimal to the administering agency (State Fire Marshal's Office) as the anticipated revenues from application fees should offset most of the costs associated with the program. There will be an initial increase in expenses, but the program should reach a stable point with additional certifications and renewals in future years.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	3,500.00	1,800.00
Personal Services	0.00	2,500.00	1,500.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Equipment	0.00	500.00	0.00
Other	0.00	500.00	300.00
2. Estimated Total Revenues	0.00	3,500.00	1,050.00

Rule Title: Stds for Certif. & Cont. Educ. of Municipal, Co., etc. Building Code Officials, etc.

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

The State Fire Commission projects that it will experience a slight increase in costs associated with the administration of the certification program under this rule. The initial implementation of the rule will involve some start-up costs requiring additional personnel time and the printing and mailing of requisite notices, forms and certifications. This should be offset by the revenue generated from application fees to be paid by all current building code officials, inspectors and plans examiners.

Once the program has commenced, the operating costs should be minimal and the agency estimates that annual revenues will be approximately one-third of that received during the initial implementation.

**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

[Empty box for identifying areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.]

Date: June 27, 2005

Signature of Agency Head or Authorized Representative

James W Spears

TITLE 87  
LEGISLATIVE RULES  
STATE FIRE COMMISSION

RECEIVED  
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SERIES 7  
STANDARDS FOR THE CERTIFICATION  
AND CONTINUING EDUCATION OF MUNICIPAL,  
COUNTY, AND OTHER PUBLIC SECTOR BUILDING CODE  
OFFICIALS, BUILDING CODE INSPECTORS AND PLANS EXAMINERS

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§87-6-1 General**

1.1 Scope: This rule establishes the requirements for the certification, continuing education and training of municipal, county and other public sector building code officials, building code inspectors and building code plans examiners to ensure compliance with the State Building Code.

1.2 Authority: West Virginia Code §29-3-5b(c).

1.3 Filing Date:

1.4 Effective Date:

**§87-7-2 Definitions**

2.1 "Building code inspector" is a person who conducts inspections and examinations of buildings in the process of construction or renovation to ascertain the level of compliance with the state building code.

2.2 "Building code official" is a person who oversees and administers the building code department in a city, county or other local government entity that has lawfully adopted the state building code. In this role, the person supervises building code inspectors, plans examiners, and other administrative and technical staff for the department.

2.3 "Building code plans examiner" is a person who examines and reviews construction or renovation plans and drawings for compliance with the requirements of the state building code.

2.4 "Continuing education" means additional training and education that is attained or pursued subsequent to initial certification by the State Fire Commission.

2.5 "Fire Commission" means the thirteen (13) appointed members of the West Virginia State Fire Commission.

2.6 "Fire Marshal" refers to the West Virginia State Fire Marshal and his designated representatives.

2.7 "ICC" refers to the International Code Council, currently headquartered in Falls Church, VA.

2.8 "State building code" refers to the code adopted by the West Virginia State Fire Commission, codified in the State Register as Title 87, Series 4, 87 CSR 4, including all provisions and all codes and standards incorporated by reference therein.

### **§87-7-3 Certification of Building Code Officials, Plans Examiners and Inspectors**

3.1 No person may be employed or serve as a public building code official, building code plans examiner or building code inspector unless that person is certified in their respective category by the State Fire Commission.

3.2 Categories and Qualification for Certification - The State Fire Commission may certify an individual with the following classification or category upon a sufficient showing that the person possesses these designated qualifications:

a. Building Code Official - successful completion the training and examination necessary to be certified as a "Code Official" by the International Code Council, or an equivalent certification by an examination authority accepted by the State Fire Commission, or licensed to practice in this state as a Professional Engineer or Professional Architect.

b. Building Code Plans Examiner - successful completion the training and examination necessary to be certified as a "Plans Examiner" by the International Code Council, or an equivalent certification by an examination authority accepted by the State Fire Commission, or licensed to practice in this state as a Professional Engineer or Professional Architect.

c. Building Code Inspector - successful completion the training and examination necessary to be certified as a "Inspector" by the International Code Council, or an equivalent certification by an examination authority accepted by the State Fire Commission, or licensed to practice in this state as a Professional Engineer or Professional Architect.

3.3 All persons employed as building code officials, building code inspectors and building code plans examiners, no less than ninety days before the effective date of this rule, by a local government entity that has lawfully adopted the state building code, are deemed qualified for their respective positions for purposes of initial certification. Upon the filing of a registration, on forms to be provided by the State Fire Marshal, within 120 days of the effective date of this rule, such persons shall be certified for their respective positions by the State Fire Commission.

3.4 Any municipality, county, or other local government entity with the authority to adopt and enforce the state building code, that adopts the state building code within six months of the effective date of this rule shall be allowed to have its building code official, plans examiners and building code inspectors initially under the same mechanism provided in the foregoing subsection.

3.5 Any person not qualified for certification under the provisions of subsections 3.3 and 3.4, must apply for certification by demonstration of the qualifications established in subsection 3.2. Application for certification shall be made in writing to the State Fire Commission upon forms designated or prescribed by the State Fire Marshal.

3.6 The fee for certification shall be \$50.00.

#### **§87-7-4 Continuing Education Requirement**

4.1 In order to maintain a certification and qualify for the renewal of the certification, each building code official, building code plans examiner and building code inspector shall be required to complete a minimum of 1.5 contact hours or continuing education units annually in courses approved by the State Fire Commission. A continuing education unit is equivalent to 50 minutes of instruction.

4.2 The State Fire Commission may establish building code training provider standards, curriculum or subject matter standard, trainer qualifications and reporting requirements for continuing education programs.

#### **§87-7-5 Renewal of Certification**

5.1 Every building code official, building code plans examiner, and building code inspector must renew his or her certification every three years. No certification will be valid for a period greater than three years.

5.2 The State Fire Marshal may designate the forms to be used for application for renewal of certification. Forms shall be made available to all persons certified under this rule. Not less than 60 days prior to the expiration of a certification, the State Fire Marshal shall notify the person by mail of the pending expiration and provide that person with copies of the forms required to apply for renewal of the certification.

5.3 The fee for renewal of the certification shall be \$50.00.

#### **§ 87-7-6 Alternative for Probationary Employment of Uncertified Officials**

6.1 Upon a showing that there is a lack of certified individuals to serve a municipality, county or other local government entity as a building code official, building plans examiner or building code inspector, that government body may request that the State Fire Commission grant the entity provisional status for up to three years, during which the local government entity may employ up to two uncertified individuals to serve in such positions. At or before the expiration of the provisional status, the persons so employed shall obtain the necessary qualifications for certification or the local government entity shall hire certified individuals for the building code positions.

**§87-7-7 Denial, suspension or revocation of certification; other fees**

7.1 The State Fire Commission shall have the power to deny, suspend or revoke any certification or application for certification for any of the following grounds:

- a. failure to provide sufficient or complete documentation,
- b. providing false documentation,
- c. making any misrepresentation in the process of application for certification or renewal of certification,
- d. failure to comply with the continuing education requirements,
- e. failure to submit full payment of certification fees, or
- f. failure to submit an application within the time periods provided by this rule.

7.2 The State Fire Commission may assess a late payment fee for any application submitted after the filing deadline according to the following schedule: \$50 for an application submitted less than fifteen days after the deadline, \$100 for an application submitted fifteen to thirty days after the deadline and \$200 for an application submitted more than thirty days after the filing deadline.

7.3 If any person fails to renew his certification within sixty days of the date of expiration of his certification, that person will not be entitled to a renewal and must reapply as a new applicant for certification.