

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

Form #3

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2008 AUG 26 AM 11:37

OFFICE WEST VIRGINIA
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: 87

CITE AUTHORITY: 29-3-5b(c)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

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

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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.

Charles L. Eversole /als
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: August 26, 2008

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* State Fire Commission
1207 Quarrier Street, 2nd Floor
Charleston, WV 25301
ATTN: Anthony Carrico 558-2191 Ext. 53206

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 29-3-5b(c)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
July 18, 2008

b. What other notice, including advertising, did you give of the hearing?
Agency Website and industry notices

c. Date of Public Hearing(s) *or* Public Comment Period ended:
August 20, 2008

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

Attached _____ No comments received XX

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

August 26, 2008

- 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 Marshal

1207 Quarrier Street, 2nd Floor
Charleston, WV 25301

Ph: 304-558-2191 Ext. 53206 Fax: 304-558-2537

anthony.w.carrico@wv.gov

- 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)

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 or comment period:

July 18, 2008 through August 20, 2008

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

d. Attach findings and determinations and reasons:

Attached _____



The Department of Military Affairs and Public Safety

Joe Manchin III, Governor

Charles L. Eversole
Chairman
Bill L. Spencer
Vice Chairman
John S. Bailey II
Secretary

STATE FIRE COMMISSION
1207 Quarrier St, 2nd Floor
Charleston, WV 25301

Phone: (304) 558-2191
Fax: (304) 558-2537

July 16, 2008

Facts and Circumstances for §87-7 "Certification of Building Code Officials"

This rule amends existing rule §87-7 to provide clarity and necessary technical corrections. These corrections maintain the original intent of the State Fire Commission, the International Code Council (ICC) and the various municipalities and counties adopting and enforcing the State Building Code. Endorsement and cooperation is provided by the West Virginia Code Officials Association.

Charles L. Eversole
Chairman
State Fire Commission

James W. Spears
Cabinet Secretary
Military Affairs & Public Safety

WEST VIRGINIA CODE OFFICIALS ASSOCIATION
203 S. Eisenhower Drive
Beckley, WV 25801-4931
304-256-1842 – FAX 304-256-1864

July 14, 2008

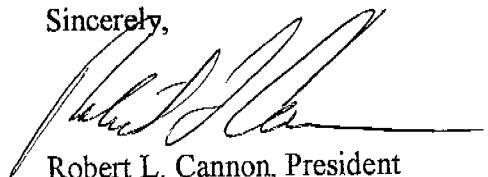
To Whom It May Concern:

The West Virginia Code Officials Association, meeting on Wednesday, March 7, 2007, unanimously endorsed submission of amendments to Title 87, Legislative Rule, Series 7, Certification of Building Code Officials, Plans Examiners and Inspectors.

These amendments make necessary technical corrections to the original Rule and clarify certain requirements therein, in keeping with the intent of the West Virginia State Fire Commission, the International Code Council (ICC) and the municipalities and counties adopting and enforcing the State Building Code.

The West Virginia Code Officials Association is comprised of Building Code Officials, Building Code Inspectors and Building Code Plans Examiners from the majority of the 65 municipalities and eight counties that have adopted and enforce the state building code.

Sincerely,



Robert L. Cannon, President
WVCOA

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Standards for the Certification and Continuing Education of Municipal, County, &
 Type of Rule: Legislative Interpretive Procedural
 Agency: State Fire Commission
 Address: 1207 Quarrier Street
2nd Floor
Charleston, WV 25301
 Phone Number: 304-558-2191 Ext. 206 Email: acarrico@wvfiremarshal.org

Fiscal Note Summary

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

Agency anticipates increased cost of approximately \$8,000.00 in additional supplies and personal services. There is also anticipated a slight increase in revenue generated for approximately \$2,000.00 due to additional licensure classifications.

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	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	8,000.00	8,000.00
Personal Services		2,000.00	-2,000.00
Current Expenses	2,000.00	4,000.00	4,000.00
Repairs & Alterations	0.00	0.00	0.00
Assets			
Other	3,000.00	3,000.00	6,000.00
2. Estimated Total Revenues	0.00	5,000.00	5,000.00

Rule Title: _____

Rule Title: Standards for the Certification and Continuing Education of Municipal, County, ar

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

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

Expect additional costs from additional personal services (salary) and additional materials and mailing.
Expect additional revenue by increases to the number of additional licensure classifications.

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.

Date: 7/18/2008

Signature of Agency Head or Authorized Representative

Charles L. Everett

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TITLE 87
LEGISLATIVE RULES
STATE FIRE COMMISSION

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

§87-6-7-1. 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. -- W. Va. 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. Building code inspectors are categorized as either "Multi-person Jurisdiction Building Code Inspector" or "Single-person Jurisdiction Building Code Inspector."

2.1.1. "Multi-person Jurisdiction Building Code Inspector" is a person who conducts building code inspections in a multi-person building code department and/or in a specific building inspection discipline(s) within a particular jurisdiction.

2.1.2. "Single-Person Jurisdiction Building Code Inspector" is a person who conducts

building code inspections as the only building inspector conducting all building inspections in all disciplines within a particular jurisdiction.

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 one or more building code inspectors, plans examiners, and other administrative and technical staff ~~for~~ employed by the building code 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. "Department" means a division of any municipality, county or other governmental entity which has adopted and enforces the State Building Code.

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

2.6.7. "Fire Marshal" refers to the West Virginia State Fire Marshal and his or her designated representatives.

2.78. "ICC" refers to the International Code Council, currently headquartered in Falls Church, VA, at 500 New Jersey Avenue, N.W., 6th Floor, Washington, D.C. 20001.

2.89. "State building code" refers to the code adopted by the West Virginia State Fire Commission in the Commission's rule, State Building Code, 87CSR4, including all provisions and all codes and standards incorporated by reference in the rule.

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

3.1. A person may not be employed or serve as a public building code official, building code plans examiner or building code inspector unless that person is certified in his or her respective category by the State Fire Commission.

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

a. Building Code Official. -- successful completion of the training and examinations necessary to be certified as a "Building Code Official" by the International Code Council, which shall consist of successful completion of the following ICC examinations:

(1) 01 CBO Legal & Management and 02 CBO Technology; or 01 CBO Legal & Management and B1 Residential Building Inspector, B2 Commercial Building Inspector, M1 Residential Mechanical Inspector, M2 Commercial Mechanical Inspector, E1 Residential Electrical Inspector, E2 Commercial Electrical Inspector, P1 Residential Plumbing Inspector and P2 Commercial Plumbing Inspector; or

(2) certification as a "Certified Building Code Official (CBCO) by successful passage of the following ICC examinations: B1

Residential Building Inspector, B2 Commercial Building Inspector, B3 Residential Plans Examiner, 01 Legal & Management, and 02 CBO Technology; or

(3) an equivalent certification by an examination authority accepted by the State Fire Commission; or

(4) licensed licensure to practice in this state as a Professional Engineer or Professional Architect;

b. Building Code Plans Examiner. --

(1) successful completion of the training and B3 Building Plans Examiner examination necessary to be certified as a "Plans Examiner" administered by the International Code Council;

(2) an equivalent certification by an examination authority accepted by the State Fire Commission; or

(3) licensed licensure to practice in this state as a Registered West Virginia Professional Engineer or Professional Architect; and

c. Multi-person Jurisdiction Building Code Inspector -- ~~successful completion of 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~~ successful passage of the ICC examination(s) required in the discipline or inspection category assigned, as listed below:

(1) Building Inspector (planning, footings and foundations, floor construction, wall construction and coverings, roof/ceiling construction and penetrations) - B1 Residential Building Inspector, or B2 Commercial Building

Inspector, or B3 Building Plans Examiner, or R3 Residential Plans Examiner;

(2) Electrical Inspector – E1 Residential Electrical Inspector, or E2 Commercial Electrical Inspector, or E3 Electrical Plans

(4) Plumbing Inspector – P1 Residential Plumbing Inspector, or P2 Commercial Plumbing Inspector, or P3 Plumbing Plans Examiner;

(5) Accessibility Inspector/Plans Examiner – 21 Accessibility Inspector/Plans Examiner;

(6) Property Maintenance & Housing Inspector – 64 Property Maintenance & Housing Inspector;

(7) Floodplain Inspector – C1 Coastal and Floodplain Construction Inspector;

(8) Reinforced Concrete Inspector – 47 Reinforced Concrete Special Inspector;

(9) Prestressed Concrete Inspector – 92 Prestressed Concrete Special Inspector;

(10) Structural Masonry Inspector – 84 Structural Masonry Special Inspector;

(11) Sprayed Fireproofing Inspector – 86 Spray-applied Fireproofing Special Inspector;

(12) Structural Steel Inspector – S1 Structural Steel and Bolting Special Inspector;

(13) Welding Inspector – S2 Structural Welding Special Inspector;

(14) Soils Inspector – EC Soils Special Inspector;

(15) Disaster Response Inspector – DR Disaster Response Inspector;

(16) Commercial Energy Inspector – 77 Commercial Energy Inspector; or

Examiner and hold a valid West Virginia Masters Electricians License;

(3) Mechanical Inspector – M1 Residential Mechanical Inspector, or M2 Commercial Mechanical Inspector, or M3 Mechanical Plans Examiner;

(17) Licensure to practice as a West Virginia Registered Professional Engineer or architect.

d. Single-person Jurisdiction Building Code Inspector – successful passage of the following ICC examinations:

(1) B1 Residential Building Inspector, B2 Commercial Building Inspector, B3 Building Plans Examiner or R3 Residential Plans Examiner; and

(2) E1 Residential Electrical Inspector, E2 Commercial Electrical Inspector or E3 Electrical Plans Examiner and licensure as a West Virginia Master Electrician; and

(3) M1 Residential Mechanical Inspector, M2 Commercial Mechanical Inspector or Mechanical Plans Examiner; and

(4) P1 Residential Plumbing Inspector, P2 Commercial Plumbing Inspector or P3 Plumbing Plans Examiner, or

(5) an equivalent certification by an examination authority accepted by the State Fire Commission, or

(6) licensure to practice in this state as a Professional Engineer or Professional Architect.

~~3.3. Any person employed as a building code official, building code inspector and building code plans examiner, 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, is considered qualified for his or her respective position for purposes of initial certification. To become certified under this provision, a qualified person must file a~~

~~registration with the Commission within 120 days of the effective date of this rule, using forms to be provided to be provided by the State Fire Marshal.~~

~~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 may have its building code official, plans examiners and building code inspectors qualified for certification in the same manner and through the same registration process as provided in subsection 3.3 of this section.~~

~~3.5.3. Any person not qualified for certification under the provisions of subsections 3.3 and 3.4, shall apply for certification by demonstration of the qualifications established in subsection 3.2 of this section. Application for certification shall be made in writing to the State Fire Commission upon forms designated or prescribed by the State Fire Marshal.~~

~~3.6.4. The fee for certification is \$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 complete a minimum of 1.5 continuing education units annually in courses approved by the State Fire Commission. A continuing education unit is equivalent to ~~50 minutes~~ 10 hours of instruction as approved by the State Fire Commission.

4.2. The State Fire Commission may establish building code training provider standards, curriculum or subject matter standards, 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 shall renew his or her certification every three

years. A certification is not 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 and shall make them 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 or by electronic means approved by the State Fire Commission 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 is \$50.00.

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

6.1. Upon a showing that there is a lack of certified persons available 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~~ two years, during which the local government entity may employ ~~up to two~~ uncertified persons to serve in those positions. At or before the expiration of the provisional status, those persons shall obtain the necessary qualifications for certification or the local government entity shall hire certified individuals for the building code positions. The State Fire Marshal may grant an extension of probationary status based on extenuating circumstances or guidelines approved by the State Fire Commission, not in conflict with the intent of these rules.

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

7.1. The State Fire Commission may 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 renewal 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 renewal 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 or her certification within sixty days of the date of expiration of his or her certification, that person is not entitled to a renewal and shall reapply as a new applicant for certification. The fee for reapplication for failure to renew within sixty days of expiration shall be \$250, plus the \$50 certification application fee, as required in section 7.2 of this rule.

7.4. Any person denied certification or whose certification is suspended or revoked by the State Fire Commission may request an administrative hearing pursuant to West Virginia Code § 29A-5-1 et seq.