

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #1

Do Not Mark In This Box

FILED

11 10 22 P 12 17

NOTICE OF A PUBLIC HEARING ON A PROPOSED RULE

AGENCY: West Virginia State Fire Marshal's Office TITLE NUMBER: 103

RULE TYPE: Legislative CITE AUTHORITY: \$29-3C-4

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: 1

TITLE OF RULE BEING PROPOSED: "Certification of Electrical Inspectors"

DATE OF PUBLIC HEARING: January 3, 2003 TIME: 10:00 am

LOCATION OF PUBLIC HEARING: Days Inn, Flatwoods, WV , Conference Room "D"

COMMENTS LIMITED TO: ORAL ☐ , WRITTEN ☐ , BOTH ☒

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS:

The Department requests that persons wishing to make
comments at the hearing make an effort to submit written
comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Attn: Electrical Inspectors

West Virginia State Fire Marshal's Office

1207 Quarrier Street, 2nd Floor
Charleston, WV 25301


Authorized Signature

SCANNED



The Department of Military Affairs and Public Safety

Sterling Lewis, Jr.
State Fire Marshal

Bob Wise, Governor
Joe Martin, Cabinet Secretary

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

STATE FIRE MARSHAL'S OFFICE

1207 Quarrier St, 2nd Floor
Charleston, WV 25301

NEWS RELEASE

FOR IMMEDIATE RELEASE

November 22, 2002

The West Virginia State Fire Marshal's Office today filed with the Secretary of State and the Legislative Rule making Review Committee a new legislative rule pertaining to the CERTIFICATION OF ELECTRICAL INSPECTORS.

This is a new legislative rule to comply with the provisions of Chapter 29, Article 3C of the West Virginia Code. This new legislative rule establishes rules and procedures for electrical inspectors throughout West Virginia.

Copies of the proposed rule are available from the Secretary of States Office, Administrative Law Division at the State Capitol in Charleston, WV. Telephone (304) 558-6000.

A public hearing has been scheduled to receive input from interested parties as well a comment period to receive written comments.

The public hearing is scheduled for Friday, January 3, 2003, 10:00 AM at the Days Inn, in Flatwoods, WV, Conference Room D.

Written comments will be accepted until the close of business (or 4:00 PM) on Friday, January 3, 2003 at the Charleston office.

Written comments should be addressed as follows:

Attn: Electrical Inspectors
West Virginia State Fire Marshal's Office
1207 Quarrier Street, 2nd Floor
Charleston, WV 25301

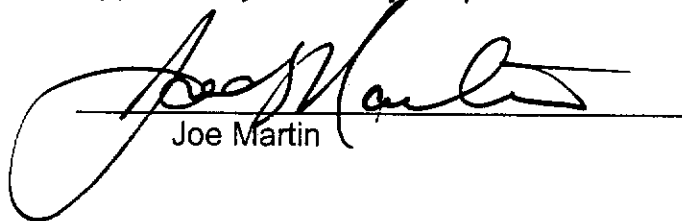
For additional information or questions, you may contact the Charleston office at (304) 558-2191.

WEST VIRGINIA

CERTIFICATION OF ELECTRICAL INSPECTORS

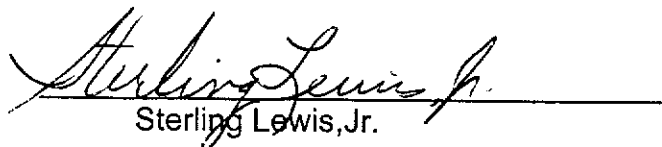
Rules
Of the West Virginia
State Fire Marshal

Approved by Secretary, Department of Military Affairs and Public Safety


Joe Martin

21 Nov 02
Date

Approved by State Fire Marshal


Sterling Lewis, Jr.

11-22-02
Date

STATE FIRE MARSHAL'S OFFICE
1207 Quarrier Street, 2nd Floor
Charleston, WV 25301



The Department of Military Affairs and Public Safety

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STATE FIRE MARSHAL'S OFFICE

1207 Quarrier St, 2nd Floor
Charleston, WV 25301

SUMMARY OF LEGISLATIVE RULE FOR CERTIFICATION OF ELECTRICAL INSPECTORS

Proposed legislative rule §103-1 "Certification of Electrical Inspectors" establishes the following as a Legislative Rule:

Standards and procedures for certification, including applications, examinations required, fee schedule, qualifications and classifications, procedures for investigating complaints, revoking or suspending certifications and for certification renewal. In addition, this rule establishes electrical inspector's responsibilities, prohibited acts and penalties for non-compliance.

This rule is necessary to fulfill statutory obligations imposed by §29-3C. Many private electrical inspectors and some electrical power utilities are awaiting approval and implementation of legislative rule to comply with said statute. Currently, some electrical utilities require an electrical inspection of electric service prior to activation. Legislative rules are necessary for this agency to effectively regulate and certify electrical inspectors. Also this legislative rule establishes rules and guidelines for the electrical trade to adhere to and reference.

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #7 ☐

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Filing Date

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: State Fire Marshal TITLE NUMBER: 103

CITE AUTHORITY: §29-3C-4

EMERGENCY 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: 1

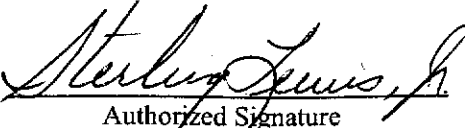
TITLE OF RULE BEING PROPOSED: "Certification of Electrical Inspectors"

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME
EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER
FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE
AS FOLLOWS:

Rule must be implemented and effective upon statutory effective date of January 1, 2003. §29-3C-4 authorizes this as an emergency rule and authorizes the state fire marshal to file as an emergency rule. Many potential electrical inspectors are awaiting for rule implementation as a guide to certification. Currently, some electrical utilities require electrical inspections prior to electrical service activation.

Use additional sheets if necessary


Authorized Signature



EMERGENCY RULE QUESTIONNAIRE

DATE: November 22, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) State Fire Marshal's Office Attn: Anthony Carrico
1207 Quarrier Street, 2nd Floor
Charleston, WV 25301 Ph: (304) 558-2191 Ext. 206

EMERGENCY RULE TITLE: Certification of Electrical Inspectors

1. Date of filing November 22, 2002
2. Statutory authority for promulgating emergency rule:
§ 29-3C-4
3. Date of filing of proposed legislative rule: November 22, 2002
4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? Adopts new language
5. Has the same or similar emergency rule previously been filed and expired?
No
6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.
~~Rule must be implemented to comply with statutory effective date of January 1, 2003.~~
§29-3C-4 authorizes the State Fire Marshal to file emergency rule to fulfill this mandate. Many potential electrical inspectors are awaiting rule implementation as a guide to certification. Currently, some electrical utilities require electrical inspections prior to electrical service activation. §29-3C mandates certification of electrical inspectors on or after January 1, 2003.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

~~§29-3C-3 - "After the first day of January, two thousand three, no electrical inspections may be performed, offered or engaged in for compensation of hire within the state of West Virginia by any person who is not certified pursuant to this article..."~~

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

In absence of this rule, this agency will have no regulatory guidelines established to fulfill statutory obligations as mandated by Chapter 29, Article Three-C.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: §103-1 "Certification of Electrical Inspectors"

Type of Rule: XXX Legislative _____ Interpretive _____ Procedural

Agency: State Fire Marshal's Office

Address: 1207 Quarier Street, 2nd Fl.

Charleston, WV 25301

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$7,500.00		\$3,750.00	\$7,500.00	\$7,500.00
PERSONAL SERVICES	\$2,500.00		\$1,250.00	\$2,500.00	\$2,500.00
CURRENT EXPENSE	\$5,000.00		\$2,500.00	\$5,000	\$5,000
REPAIRS & ALTERATIONS	\$0		\$0	\$0	\$0
EQUIPMENT	\$0		\$0	\$0	\$1,500
OTHER	\$0		\$0	\$0	\$0

2. Explanation of Above Estimates:

Increase expected in materials in certificates, printing and postage. Expect computer replacement every three years annually.

3. Objectives of These Rules:

To establish rules to implement the statutory mandate of §29-3C which authorizes the state fire marshal to propose legislative rules to administer the certification program for electrical inspectors.

Rule Title: §29-3C "Certification of Electrical Inspectors"

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

Confined to the agency charged with the administration of program.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: Increase of costs to electrical inspectors due to certification fees and mandatory omissions and errors insurance.

C. Economic Impact on Citizens/Public at Large.

Possible cost increase passed onto the consumer at large due to increased cost to electrical inspector.

Date: 11-22-02

Signature of Agency Head or Authorized Representative:

Sterling Lewis Jr.

TITLE 103
LEGISLATIVE RULE
STATE FIRE MARSHAL

FILED

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SERIES 1
CERTIFICATION OF ELECTRICAL INSPECTORS

WEST VIRGINIA
SECRETARY OF STATE

§ 103-1-1. General.

1.1. Scope. -- These rules establish the procedures to be followed to protect the health, safety and welfare of the public as well as public and private property by assuring the competence of those who perform electrical inspections of dwellings and other structures through certification by the state fire marshal.

1.2. Authority. -- W. Va. Code § 29-3C-4

1.3. Filing Date. --

1.4. Effective Date. --

§ 103-1-2. Definitions.

2.1. "Certified Electrical Inspector" - Means a person in good standing with the requirements of W. Va. Code 29-3C and these rules who is certified by the state fire marshal as qualified to perform electrical inspections. As used in this rule, "electrical inspector" does not include an inspector employed by the office of miner's health, safety and training pursuant to the provisions of section eleven, article one, chapter twenty-two-a of the W.Va. code.

2.2. "Electrical Inspection" - Means any inspection required by W. Va. Code 29-3, 29-3B, 29-3C and these rules and any inspection of a building to which electrical service is connected, wherein the inspector certifies that the electrical system in the building is in compliance with the national electrical code, state fire code and/or the state building code.

2.3. "Master electrician" - Means a person who holds a valid Master's Electrician License as issued by the state fire marshal and as defined in section two, article three-b, chapter twenty-nine of the W. Va. code.

2.4. "Electrical work" - Means the installation of wires, conduits, apparatus, fixtures, other appliances, equipment or

systems for transmitting, carrying, controlling or using electricity as defined in the scope of the national electrical code.

2.5. "License" - Means a valid and current electrician's license issued by the state fire marshal.

2.6. "Electrical contractor" - Means a person, firm or corporation who engages in the business of electrical work or employs master electricians, journeyman electricians, apprentice electricians or other workers for the construction, alteration or repair of any electrical system as defined in the scope of the national electrical code.

2.7. "Design" - Means to plan or layout electrical systems in sketches or drawings for use by licensed electricians. It includes, but is not limited to, determining the service components of electrical systems, the type and sizes of conductors, circuit breakers and other components of electrical systems necessary to accommodate the demand load.

2.8. "National Electrical Code" - Means the National Electrical Code for licensing of electricians is that Code promulgated by the National Fire Protection Association. Copies of the National Electrical Code may be obtained at the expense of the party making request by contacting: The National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. 1-800-344-3555.

2.9. "State Fire Marshal" - Means the West Virginia State Fire Marshal and/or his/her designated representatives.

2.10. "State fire commission" - Means the state agency composed of the appointed state fire commissioners and the office of the state fire marshal.

§103-1-3. Certification of electrical inspectors required.

3.1. After the first day of January, two thousand three, no electrical inspections may be performed, offered or engaged in for compensation or hire within the state of West Virginia by any person who is not certified pursuant to this rule. Provided, That any person who is employed by this state or any subdivision of this state and who in the normal course of his or her employment conducts electrical inspections may perform electrical inspections as within the scope of his or her employment without certification pursuant to this rule.

§ 103-1-4. Classification of Electrical Inspectors.

4.1. Certification of electrical inspectors will compose of the following three (3) classifications:

4.1.1 - "Class A Electrical Inspector Certification" - This classification authorizes the electrical inspector to perform electrical inspections on one and two family dwellings only.

4.1.2. - "Class B Electrical Inspector Certification" - This classification authorizes the electrical inspector to perform electrical inspections on all structures including but not limited to one and two family dwellings.

4.1.3. - "Class C Electrical Inspector Certification" - This classification authorizes the electrical inspector to perform electrical plan review and perform electrical inspections on all structures including but not limited to one and two family dwellings.

§103-1-5. Qualifications for Certification.

5.1. To apply for a "Electrical Inspector's Certification" a person must possess a valid and current Master's Electrician License issued by the state fire marshal. An applicant must also show proof of successfully passing the respective tests as offered by the National Certification Program for Construction Code Inspectors and administered by Experior, Inc. 2100 NW 53rd Avenue, Gainesville, FL 32653, or its equivalent as determined by the state fire marshal and/or his or her designees.

5.1.1. For a "Class A Electrical Inspector Certification", in addition to the electrical licensure requirement, an applicant must show proof of passing "Test 2A Electrical One and Two Family Dwelling" of the National Certification Program for Construction Code Inspectors, or its equivalent as determined by the state fire marshal and/or his or her designees.

5.1.2 For a "Class B Electrical Inspector Certification", in addition to the electrical licensure requirement, an applicant must show proof of passing "Test 2A Electrical One and Two Family Dwelling" and "Test 2B Electrical General" of the National Certification Program for Construction Code Inspectors, or its equivalent as determined by the state fire marshal and/or his or her designees.

5.1.3 For a "Class C Electrical Inspector Certification", in addition to the electrical licensure requirement, an applicant must show proof of passing "Test 2C Electrical Plan Review", "Test 2A Electrical One and Two Family Dwelling" and "Test 2B

Electrical General" of the National Certification Program for Construction Code Inspectors, or its equivalent as determined by the state fire marshal and/or his or her designees.

§103-1-6. Procedure for application.

6.1. Form of Request - Each applicant requesting an electrical inspector's certification under the provisions of these rules must, as a condition precedent to such issuance of certification, furnish the state fire marshal with:

6.1.1. A completed application on forms furnished by the state fire marshal.

6.1.2. Proof of professional liability insurance (errors and omissions) in the amount of not less than two hundred and fifty thousand (\$250,000.00) dollars. Proof of renewal shall be forwarded to the state fire marshal's office prior to the expiration date of the policy and shall cover at a minimum the period for which the Electrical Certification is issued.

6.1.3 A copy of a valid West Virginia business license as issued by the West Virginia Department of Tax and Revenue.

6.1.4. Any other documentation that the fire marshal or one of his/her designees may require to ensure compliance with qualifications for certification.

6.2. Failure to Meet Experience and/or Qualifications - Any person who fails to meet the required minimum qualifications will forfeit their application fee. Any applicant who attains the minimum requirements at a latter date must submit to the state fire marshal a new application for certification.

6.3. Upon review of application and approval by the state fire marshal and receipt of the certification fee, the state fire marshal will issue the individual electrical inspector's certification.

§103-1-7. Expiration and Renewal.

7.1. Expiration - All electrical inspectors' certifications issued by the state fire marshal shall expire on the last day of the anniversary month (twelve months) from date of issuance of said certification. (i.e., license issued on August 15, 2003 will expire on August 30, 2004 and on August 30th each successive year).

7.2. Renewal Fee Required - Any electrical inspector's certification in good standing may be renewed prior to the expiration date by submitting the authorized renewal certification fee to the state fire marshal. It shall be the individual electrical inspector's responsibility to submit their certification renewal to the state fire marshal prior to the expiration date.

7.3. Renewal After Expiration - All electrical inspectors' certifications not renewed in accordance with the provisions of this rule will be required to submit a new application to the state fire marshal. No person shall perform electrical inspection work during the period of time their certification is expired. Any person failing to renew their certification will be required to reapply for the electrical inspector's certification for which he/she qualifies in accordance with these rules.

7.4. As a condition of renewing any electrical inspector's certificate, the state fire marshal shall require proof of completion of three (3) Continuing Education Units every three years. Upon providing the state fire marshal with the required documentation, the state fire marshal will issue the certification.

§103-1-8. Fees.

8.1. Certification fee - Means a fifty (\$50.00) dollar fee per certification.

8.2. Renewal fee - Means a one hundred (\$100.00) dollar fee per certification annually.

8.3. Application fee - Means a twenty-five (\$25.00) dollar fee per application submitted.

8.4. Duplicate license fee - A person who has lost or had their electrical inspector's certification destroyed, may submit a duplicate application fee of ten (\$10.00) dollars payable to the state fire marshal and a notarized statement stating that said license was lost or destroyed.

§103-1-9. Prohibited Acts.

9.1. An electrical inspector may neither approved nor disapprove electrical work of which he or she does not have personal knowledge. He/she shall refrain from engaging in misrepresentation of his/her authority or responsibility. He/she may not use his/her certification as an electrical inspector to secure special favors or treatment.

9.2. An electrical inspector may not inspect any electrical installation for which he/she has performed any part of the work. A person may not perform an electrical inspection of any work furnished by a private contractor that employs him/her on a full-time, part-time or incidental basis, nor commit a conflict of interest under West Virginia law: Provided, That an employee of a contractor performing electrical installation may inspect electrical work performed by other employees of the same employer, so long as the inspection is not intended to be relied on by any person other than the employer and so long as the electrical inspector does not certify to an electric utility or to any person that the work is in compliance with applicable building codes, electrical codes or other standards.

§ 103-1-10. Effect of Noncompliance; Failure to obtain certification; Penalty.

10.1. Penalties are in accordance and as established by W. Va. Code §29-3C-9.

10.2. Each day during which such electrical inspection is performed without the required certification or while in non-compliance with any of the provisions of W. Va. Code §29-3-1 et seq., after official notice that such work is unlawful, is a separate offense.

§ 103-1-11. Disposition of Complaints.

11.1. Enforcement of Certification Requirements - In the course of investigating complaints as authorized under West Virginia Code, the state fire marshal and his/her designated representative shall inquire respecting the certification of persons in compliance with W. Va. Code §29-3-1, et seq. and these rules.

11.2. Any citizen, law enforcement official or other official of any state, county, or municipal government agency, upon observing an infraction of the certification requirements of W. Va. Code §29-3C-1 et seq. may make a written complaint to the office of the state fire marshal. The state fire marshal may provide a form for this purpose, but a complaint may be filed in any written form. When a complaint is made to the office of the state fire marshal, that office shall investigate the complaint. In addition to describing the alleged violation which prompted the complaint, the complaint should contain as a minimum the following information:

11.2.1 The name and address of the certified electrical inspector or applicant against whom the complaint is lodged.

11.2.2 The date of the alleged unlawful act.

11.2.3 The nature of the alleged unlawful act.

11.2.4 The location of the alleged unlawful act/occurrence.

11.3. Requests for comment on complaints sent to the certificate holders or applicants shall be considered properly served when sent to their last known address. It is the responsibility of the certificate holder or applicant to keep the state fire marshal informed of his/her current address.

11.4. After receipt and review of a complaint, the state fire marshal shall cause to be conducted any reasonable inquiry or investigation he/she considers necessary to determine the truth and validity of the allegations set forth in the complaint.

§ 103-1-12. Responsibilities of the Electrical Inspector.

12.1. Any certified electrical inspector, if he/she has knowledge of violations of any rule of the state fire marshal or any rule of the state fire commission or of the W. Va. Code, shall submit the information, together with available evidence to the state fire marshal.

12.2. All certified electrical inspectors shall submit a written report of any findings of his or her electrical inspection to the property owner and other appropriate parties. In addition, the electrical inspector shall include the name and electrical license number of the individuals performing the electrical work.

12.3. Shall submit an annual report to the state fire marshal indicating the number, type and locations of electrical inspections performed during the proceeding year. This annual report shall be filed with the state fire marshal no later than the thirty-first day of January the following year.

12.4. Shall submit annually to the state fire marshal a copy of his or her respective fee schedule.

12.5. Shall comply with all federal, state and local laws, rules and regulations.

§ 103-1-13. Denial of Cerification; Suspension or Revocation.

13.1. The state fire marshal may, upon complaint, or upon his or her inquiry, subject to the provisions of article one, chapter thirty of the W. Va. Code, suspend or revoke the license of any person upon finding that:

13.1.1 The certification was granted upon an application, or upon documents supporting the application, that materially misstated the applicant's qualifications or experience.

13.1.2 The certified electrical inspector incompetently performed an electrical inspection.

13.1.3 The certified electrical inspector failed to comply with a material provision of article three, article three b, and article three c, chapter twenty-nine of the W. Va. Code or any rule of the state fire commission or fire marshal.