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

Form #2

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2004 APR 28 P 3:03

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: State Fire Marshal TITLE NUMBER: 103

RULE TYPE: Legislative CITE AUTHORITY: 29-3-12b

AMENDMENT TO AN EXISTING RULE: YES X NO ____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: Fees for Licenses, Permits, Inspections, Plans Review and other Services Rendered

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: ____

TITLE OF RULE BEING PROPOSED: ____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON May 28, 2004 AT 4:00 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

State Fire Marshal's Office

ATTN: Fees Rule

1207 Quarrier Street, 2nd Floor

Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Sterling Lewis, Jr.
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

$4.60

West Virginia

State Fire Code

Title 103, Series 2

FEES FOR LICENSES, PERMITS, INSPECTION, PLANS REVIEW AND OTHER SERVICES RENDERED

Rules
Of the West Virginia
State Fire Marshal

Approved by Secretary, Department of Military Affairs and Public Safety

M Christine F Morris
M. Christine F. Morris

27 April 04
Date

Approved by State Fire Marshal

Sterling Lewis Jr.
Sterling Lewis, Jr.

4-27-04
Date

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

EMERGENCY RULE QUESTIONNAIRE

DATE: April 15, 2004

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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

EMERGENCY RULE TITLE: 103-2

1. Date of filing April 15, 2004

2. Statutory authority for promulgating emergency rule:

29-3-12b

3. Date of filing of proposed legislative rule: April 15, 2004

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? Yes

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.

Fees for Indoor and Outdoor Pyrotechnician are in error. Original data and facts were erroneously submitted to agency. Current fees constitute an undue hardship to the fireworks industry and general public. Agency desiring to ammend fees for these two license classifications to reflect a more reasonable amount.

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.

N/A

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

Cuurent fee schedule for indoor and outdoor pyrotechnicians are grossly elevated due to erroneous facts submitted to the agency. Renewals have already been sent to all license holders of these classifications. State faces the possibility of having few if any licensed pyrotechnicians for the coming year. Request immediate consideration so the agency can correct this error.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Fees for Licenses, Permits, Inspections, Plans Review and other Servcies Rendere

Type of Rule: XXX Legislative _____ Interpretive _____ Procedural

Agency: State Fire Marshal's Office

Address: 1207 Quarrier Street, 2nd Floor

Charleston, WV 25301

1. Effect of Proposed rule:

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST					
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:
Rule provides income for the operation of the agency. Collection of the various fees is a part of the administrative function and we do not seperate the cost of collecting fees.

3. Objectives of These Rules:
To provide revenue for the operation of the State Fire Marshal's Office, and to establish a fee schedule as provided in 29-3-12b.

Rule Title: Fees for Licenses, Permits, Inspections, Plans Review and Other Services Rende

4. Explanation of Overall Economic Impact of Proposed Rule:

   A. Economic Impact on State Government:
   Overall impact of this fee schedule when compared to the existing legislative rule, is estimated to reflect a $72,000.00 drop in expected revenue in two license classifications. Proposed fee for these two license classifications is estimated to generate approximately $8,000.00 annually.

   B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: A reduction of $72,000.00 in expected revenue to the agency. Proposed fee for two license classifications is expected to be $8,000.00 annually. A dramatic savings to the fireworks industry and the general public by reducing the costs associated with indoor and outdoor firework displays.

   C. Economic Impact on Citizens/Public at Large.
   Reduced costs to the public at large due to a reduction of licensure fees associated with legal firework displays.

Date: 4-27-04

Signature of Agency Head or Authorized Representative:

Proposed Legislative Rule
Title 103, Series 2

State Fire Marshal
"Fees for Services"

SUMMARY:

This rule establishes the agency fee schedule as authorized by State Code 29-3-12b 2002. This rule directs revenue beginning July 1, 2004 to the Special Revenue Fund. Current statutory requirements, under State Code 29-3 will be funded from the Special Revenue Fund.

CIRCUMSTANCES:

To correct an error by the agency, Emergency Rules have been filed to reduce the authorized fees for pyrotechnicians from $200.00 annually to $20.00 annually. No other changes have been submitted or are requested.

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2004 APR 28 P 3:08

OFFICE WEST VIRGINIA
SECRETARY OF STATE

TITLE 103
LEGISLATIVE RULE
STATE FIRE MARSHAL

SERIES 2
FEES FOR LICENSES, PERMITS, INSPECTION, PLANS REVIEW & OTHER SERVICE RENDERED

§103-2-1. General.

1.1. Scope. -- This Legislative Rule establishes the fees to be charged by the State Fire Marshal for services rendered.

1.2. Authority -- W. Va. Code §29-3-12b.

1.3. Filing Date --

1.4. Effective Date --

~~1.5. Repeal: -- This rule repeals Rule Title 87, Series 5 "Fees for Services Rendered" effective date March 30, 1990.~~

§103-2-2. Definitions.

2.1. NFPA -- National Fire Protection Association

2.2. NFC -- National Fire Codes

2.3. Manufacturing -- Mixing, blending, extruding, assembling, disassembling, chemical synthesis, and other functions involved in making a product or device that is intended to explode.

2.4. Manufacturer -- Any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution.

2.5. Manufacturer-limited -- Any person engaged in the business of manufacturing explosive materials for his own use and not for sale or distribution.

2.6. Dealer -- Any person engaged in the business of distributing explosive materials at wholesale or retail.

§103-2-3. Explosives: As Defined in NFC Sections 495, 1124, and 1126. Exception: Chapter 11 of Section 495.

3.1 Permits to use explosives:

CLASS	CATEGORY	BLASTING PERMITTED	ANNUAL PERMIT FEE
A	Unlimited	All types of blasting	$75.00
B	General aboveground	All phases of blasting operation in quarries, open pit mines, and aboveground construction.	$75.00

C	General underground	All phases of blasting operations in underground mines, shafts, tunnels, and drifts. Exception, underground coal mining.	$75.00
D	Demolition	All phases of blasting in demolition projects	$75.00
E	Seismic	All phases of blasting in seismic prospecting	$50.00
F	Agriculture	All phases of blasting in agriculture, but limited to not more than 50 lbs. (22.7 kg) per blast.	$15.00
G	Special	Special blasting as described on the permit	$40.00
H	Pyrotechnicians	Indoor Fireworks Display's	~~$200.00~~ $20.00
I	Pyrotechnicians	Outdoor Fireworks Display's	~~$200.00~~ $20.00
	Initial Application/Test Fee	For Application Review and any testing for above licenses	$40.00

3.2. Permit to sell Explosives

Initial Application and Review Fee $40.00

Manufacturer, site—site specific ..... $1,000.00 annual fee

Manufacturer—limited, site specific ..... $250.00 annual fee

Dealer (state wide) ..... $500.00 annual fee

3.3. Permit to store Explosives ..... $100.00 per magazine

3.4 Public Fireworks Display and Storage Permit (for each display) 1% of invoiced display with a minimum fee of $25.00

§103-2-4. Explosives as defined in NFC Section 495, Chapter 11.

Permit to store and sale on premises ..... $50.00 annual fee

§103-2-5. Removal, Transportation & Disposal of explosive/hazardous materials, or other legally confiscated items or material.

Actual cost of personnel, materials, transportation, and other miscellaneous and related cost necessary to mitigate the situation plus 30% overhead charges.

§103-2-6. Inspections.

6.1. Public/Private Schools: Preschool-12th Grade: ..... $25.00 per bldg. per year

6.2. Day Care Occupancy: ..... $25.00 per bldg. per year

6.3. Hospitals:

6.3.1. 100 or more beds ..... $100.00 per bldg. per year

6.3.2. 99 or less beds ..... $75.00 per bldg. per year

6.4. Nursing Homes:

6.4.1. 100 or more beds ..... $100.00 per bldg. per year

6.4.2. 99 or less beds ..... $75.00 per bldg. per year

6.5. Limited-Care Occupancy ..... $50.00 per bldg. per year

6.6. Board and Care Occupancy:

6.6.1. Small (up to 16 residents) ..... $30.00 per bldg. per year

6.6.2. Large (more than 16 residents) ..... $50.00 per bldg. per year

6.7. Residential Occupancy:

6.7.1. Hotels/Motels ..... $2.00 per guest room with a minimum of $25.00 per inspection

6.7.2. Dormitories -- 51 or more beds ..... $100.00 per inspection
50 or less beds ..... $50.00 per inspection

6.7.3. Apartments -- 13 or more units per bldg. ..... $ 100.00 per inspection
12 or less units per bldg. ..... $50.00 per inspection

6.7.4. Lodging/Rooming occupancies ..... $ 30.00 per inspection

6.8. Mercantile Occupancy:

6.8.1. Covered malls (Concourse) ..... $100.00 per inspection

6.8.2. Combined mercantile and residential occupancy ..... $75.00 per inspection

6.8.3. Class A mercantile ..... $100.00 per inspection

6.8.4. Class B mercantile ..... $ 100.00 per inspection

6.8.5. Class C mercantile ..... $ 50.00 per inspection

6.9. Business Occupancy:

6.9.1. City Halls ..... $50.00 per inspection

6.9.2. Courthouses ..... $50.00 per inspection

6.9.3. Dentist and doctors offices ..... $50.00 per inspection

6.9.4. General offices ..... $50.00 per inspection

6.9.5. Outpatient clinics, ambulatory care ..... $100.00 per inspection

6.9.6. Colleges and universities including instructional building, classrooms under 50 persons, and instructional laboratories ..... $100.00 per inspection

6.10. Assembly Occupancy:

6.10.1. Occupant load of 1000 + persons ..... $100.00 per inspection

6.10.2. Occupant load of 301 – 999 persons ..... $75.00 per inspection

6.10.3. Occupant load of 50 – 300 persons ..... $50.00 per inspection

6.11. Detention/Correction Occupancy:

51 or more beds ..... $100.00 per inspection
50 or less beds $50.00

6.12. Fire Protection System: The state fire marshal may charge the following fee for acceptance of a newly installed fire protection system in existing buildings.

6.12.1. Fire alarm system ..... $50.00 per inspection

6.12.2. Sprinkler system ..... $50.00 per inspection
6.12.3. Kitchen AES ..... $25.00 per inspection

6.12.4. FM 200 ..... $25.00 per inspection

6.12.5. If the owner or occupant of any occupancy arranges a time and place for an inspection with the state fire marshal's office and is not ready for the occupancy to be inspected at the appointed time and place, the owner or occupant thereof shall be charged the inspection fee provided in this section, unless at least forty-eight hours prior to the scheduled inspection the owner or occupant requests the state fire marshal to reschedule the inspection. In the event a

second inspection is required by the state fire marshal as a result of the owner or occupant failing to be ready for the inspection when the state fire marshal arrives, the state fire marshal shall charge the owner or occupant of the occupancy the inspection fees set forth above for each inspection trip required.

6.13. Inspection upon written complaint:

Unjustified Complaint (Fee charged complainant).....$25.00

6.14. Review of Architectural Plans and Specifications of New and Existing Construction:

One dollar for each one thousand dollars of construction cost up to the first one million dollars. Thereafter, the fee is eighty cents for each one thousand dollars of construction cost. (fee includes all construction inspections and final inspection for a certificate of occupancy)

6.15. Review of Sprinkler Plans and Specifications:

6.15.1. 13 D Sprinkler system $85.00

6.15.2. 13 and 13 R sprinkler system (based on number of sprinkler heads)

6.15.2.1. 1-200 heads $85.00

6.15.2.2. 201-399 heads $00.00

6.15.2.3. 400-749 heads $120.00

6.15.2.4. 750 + heads .....$120.00 plus 10 cents per head over 750 heads

6.16. Review of Fire Alarm Plans and Specification: .....$50.00 per 10,000 square foot building with $50.00 being the minimum cost

6.17. Review of Range Hood Plans and Specifications: .....$25.00 per hood

6.18. Review of FM 200 Plans and Specifications: .....$100.00 per system

6.19. Review for Carpet Specifications of Certification/Approval: $20.00

103-2-7. Administration Fees.

7.1. Document Research:

7.1.1. In office .....$10.00 per hour
7.1.2. In archives .....$25.00 per hour

7.2. Document Duplications:

7.2.1. First Page $2.00

7.2.2. Each additional page.....$.25

7.3. Copies of Public Records ..... $10.00 per hour with a minimum of 1 hour, plus duplication/copy charges

7.4. Fire Department Mailing Labels ..... $50.00 per set

7.5. Written confirmation of license/permits $25.00

7.6. Fire Investigation Reports $25.00

7.7. Fire Incident Reports $10.00

7.8 Invoices and billing are due within 30 days of services date. Past due accounts will accrue interest at the rate of 1 ½ % per month on the unpaid balance of the account.