

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

Form #3 □

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2003 JUL 28 P 4:02

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 Marshal TITLE NUMBER: 103

CITE AUTHORITY: 29-3-12b

AMENDMENT TO AN EXISTING RULE: YES \_\_\_ NO XX

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 2

TITLE OF RULE BEING PROPOSED: Fees for Licenses, Permits, Inspections, Plans Review, and  
Other Services rendered.

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.

Clarence Joe Leake  
Authorized Signature  
For Starling Lewis Jr.

FEEES FOR LICENSEES, PERMITS, INSPECTION, PLANS REVIEW & OTHER  
SERVICES RENDERED

TITLE 103, SERIES 2

AGENCY APPROVED RULE

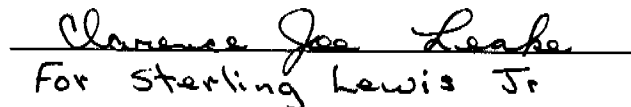
State Fire Marshal

Approved by Secretary, Department of Military Affairs and Public Safety

  
\_\_\_\_\_  
Joe Martin

28 July 03  
Date

Approved by State Fire Marshal

  
\_\_\_\_\_  
For Sterling Lewis Jr

28 Jul 03  
Date

STATE FIRE MARSHAL  
1207 Quarrier Street, 2<sup>nd</sup> Floor  
Charleston, WV 25301



**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, 2<sup>nd</sup> Floor  
Charleston, WV 25301

Date: July 28, 2003  
To: LRMRC  
From: Sterling Lewis, Jr. *ejl*  
State Fire Marshal *for*  
Subject: Rules

The Fire Marshal has been authorized to promulgate rules by state code. The State Fire Commission is also authorized to promulgate rules.

In an effort to keep these authorizations separate, two title number have been established with the Secretary of States Office for rules as follows:

State Fire Commission Rules will be Title 87

State Fire Marshal Rules will be Title 103

Recent legislation has authorized the State Fire Marshal to set fees for services by rules rather than have the fees established by statute.

I am there fore requesting that we be permitted to repeal the set of Rules promulgated by The State Fire Commission Title 87 Series 5 which mirrored the statutory set fees and be permitted to promulgate the new rule on fees as Title 103, Series 2.

Thank you for consideration of this request.

**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 28, 2003

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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

LEGISLATIVE RULE TITLE: Fees for Licenses, Permits, Inspections, Plans Review and  
Other Services Rendered.

1. Authorizing statute(s) citation 12-3-12b

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
June 25, 2003

b. What other notice, including advertising, did you give of the hearing?  
none

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
July 25, 2003

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

Attached \_\_\_\_\_ No comments received none

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

July 28, 2003

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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)

Sterling Lewis, Jr. State Fire Marshal, Joe Leake, Field Deputy Fire Marshal,  
(Acting State Fire Marshal), A B Corley, Jr. Admin. Asst to SFM  
1207 Quarrier Street, Second Floor, Charleston, West Virginia 25301  
304-558-2191 FAX 304-558-2537

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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)

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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.

n/a

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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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**Proposed Legislative Rule  
Title 103 Series 2**

**State Fire Marshal  
"Fees for Services"**

**SUMMARY:**

This rule repeals title 87 Series 5 previously authorized by the State Fire Commission in accordance with WV State Code 29-3-12b, 1989.

Changes in the State Code removes the fees charged from statute and authorizes the State Fire Marshal to establish a fee schedule by rules by State Code 29-3-12b 2002.

**CIRCUMSTANCES:**

To comply with recently passed legislation that authorizes the Fire Marshal to set a fee schedule by rules and which will place the operations of the State Fire Marshal's operation primarily under "Appropriated Special Revenues" beginning July 1, 2004.

This rule will direct revenue beginning July 1, 2004 to the Special Revenue Fund. Current Statutory requirement, under State Code 29-3 will be funded from the Special Revenue Fund.

■  
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

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

Type of Rule: xxxxx Legislative    \_\_\_\_\_ Interpretive    \_\_\_\_\_ Procedural

Agency: State Fire Marshal

Address: 1207 Quarrier Street, Second Floor, Charleston, West Virginia 25301

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<b>ESTIMATED TOTAL COST</b>					
<b>PERSONAL SERVICES</b>					
<b>CURRENT EXPENSE</b>					
<b>REPAIRS &amp; ALTERATIONS</b>					
<b>EQUIPMENT</b>					
<b>OTHER</b>					

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 separate 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 Render

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 previous statute fees, is estimated to have an overall impact of a 5% increase in the revenue collected. Current Revenue is \$377,730.00. Increase will amount to \$18,886.00.


B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: Due to the restructure of the fee schedule, some will see a decrease and some will see an increase. Minimal on either side.

C. Economic Impact on Citizens/Public at Large.

No noticeable effect.

Date: July 28, 2003

Signature of Agency Head or Authorized Representative:

  
Admiral Asst. to State Fire Marshal

Title 103

Legislative Rule

State Fire Marshal

Series 2

Fees for Licenses, Permits, Inspection,

Plans Review & Other Service Rendered

FILED

2003 JUL 28 P 4: 02

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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 Repeal: This rule repeals Rule Title 87, Series 5 "Fees for Services Rendered" effective date March 30, 1990
- 1.3 Authority: WV Code § 29-3-12b. Effective Date: June 7, 2002 c 149.
- 1.4 Filing Date:
- 1.5 Effective Date:
- 1.6 Definitions:
  - 1.6.1 NFPA-----National Fire Protection Association
  - 1.6.2 NFC-----National Fire Codes
  - 1.6.3 Manufacturing-----Mixing, blending, extruding, assembling, disassembling, chemical synthesis, and other functions involved in making a product or device that is intended to explode.
  - 1.6.4 Manufacturer-----Any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution.
  - 1.6.5 Manufacturer-limited-----Any person engaged in the business of manufacturing explosive materials for his own use and not for sale or distribution.
  - 1.6.6 Dealer-----Any person engaged in the business of distributing explosive materials at wholesale or retail.

103-2-2 Explosives: as defined in NFC Sections 495, 1124, and 1126  
Exception: Chapter 11 of Section 495

2.1 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
I	Pyrotechnicians	Outdoor Fireworks Display's	\$200.00
	Initial Application/Test Fee	For Application Review and any testing for above licenses	\$40.00

2.2 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

2.3 Permit to store Explosives-----\$100.00  
per magazine

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

**103.2.3 Explosives as defined in NFC Section 495, Chapter 11**

Permit to store and sale on premises-----\$50.00  
annual fee

**103.2.4 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.

**103.2.5 Inspections**

- 5.1 Public/Private Schools: Preschool-12<sup>th</sup> Grade:
  - 5.1.1 Up to 50,000 square foot building-----\$25.00 per bldg.  
per year
  - 5.1.2 50,001 + square foot building-----\$ 50.00 per bldg.  
per year
- 5.2 Day Care Occupancy:
  - 5.2.1 Group day care (up to 12 occupants) ----- \$25.00 per bldg.  
per year
  - 5.2.2 Day Care (12 + occupants) (2500 sq ft or less) ----- \$25.00 per bldg.  
per year
  - 5.2.3 Day Care (12 + occupants) (over 2500 sq ft) ----- \$50.00 per bldg.  
per year
- 5.3 Hospitals:
  - 5.3.1 100 or more beds-----\$300.00 per bldg.  
per year
  - 5.3.2 99 or less beds-----\$100.00 per bldg.  
per year
- 5.4 Nursing Homes:
  - 5.4.1 100 or more beds-----\$200.00 per bldg.  
per year
  - 5.4.2 99 or less beds-----\$100.00 per bldg.  
per year
- 5.5 Limited-Care Occupancy-----\$50.00 per bldg.  
per year

5.6	Board and Care Occupancy:	
	5.6.1	Small (up to 16 residents) -----\$ 30.00 per bldg. per year
	5.6.2	Large (more than 16 residents) -----\$ 50.00 per bldg. per year
5.7	Residential Occupancy:	
	5.7.1	Hotels/Motels-----\$ 2.00 per guest room with a minimum of \$25.00 per inspection
	5.7.2	Dormitories-----51 or more beds-----\$ 100.00 per inspection 50 or less beds-----\$ 50.00 per inspection
	5.7.3	Apartments-----13 or more units per bldg. -----\$ 100.00 per inspection 12 or less units per bldg. - -----\$ 50.00 per inspection
	5.7.4	Lodging/Rooming occupancies-----\$ 30.00 per inspection
5.8	Mercantile Occupancy:	
	5.8.1	Covered malls (Concourse) -----\$200.00 per inspection
	5.8.2	Combined mercantile and residential occupancy-----\$ 75.00 per inspection
	5.8.3	Class A mercantile-----\$ 200.00 per inspection
	5.8.4	Class B mercantile-----\$ 100.00 per inspection
	5.8.5	Class C mercantile -----\$ 50.00 per inspection
5.9	Business Occupancy:	
	5.9.1	City Halls-----\$ 50.00 per inspection
	5.9.2	Courthouses-----\$ 50.00 per inspection
	5.9.3	Dentist and doctors offices-----\$ 50.00 per inspection
	5.9.4	General offices-----\$ 50.00 per inspection
	5.9.5	Outpatient clinics, ambulatory care-----\$100.00 per inspection
	5.9.6	Colleges and universities including instructional building, classrooms under 50 persons, and instructional laboratories-----\$ 100.00 per inspection
5.10	Assembly Occupancy:	
	5.10.1	Occupant load of 1000 + persons-----\$ 300.00 per inspection
	5.10.2	Occupant load of 301 – 999 persons ----- \$ 100.00 per inspection
	5.10.3	Occupant load of 50 – 300 persons -----\$ 75.00 per inspection

- 5.11 Detention/Correction Occupancy:
  - 51 or more beds-----\$100.00 per inspection
  - 50 or less beds-----\$50.00
- 5.12 AGST/LP installations ( above ground storage tanks) -----\$50.00 per site
- 5.13 Fire Protection System: The state fire marshal may charge the following fee for acceptance of a newly installed fire protection system in existing buildings.
  - 5.13.1 Fire alarm system-----\$ 50.00 per inspection
  - 5.13.2 Sprinkler system-----\$ 50.00 per inspection
  - 5.13.3 Kitchen AES-----\$ 25.00 per inspection
  - 5.13.4 FM 200-----\$ 25.00 per inspection
- 5.13.5 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.
- 5.14 Inspection upon written complaint:
  - Unjustified Complaint-----Fee to complainant will be the same as listed per above occupancy.
- 5.15 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)
- 5.16 Review of Sprinkler Plans and Specifications:
  - 5.16.1 13 D Sprinkler system-----\$85.00
  - 5.16.2 13 and 13 R sprinkler system (based on number of sprinkler heads)
    - 5.16.2.1 1-200 heads-----\$100.00
    - 5.16.2.2 201-399 heads-----\$150.00
    - 5.16.2.3 400-749 heads-----\$200.00
    - 5.16.2.4 750 + heads-----\$200.00 plus 20 cents per head over 750 heads

5.17	Review of Fire Alarm Plans and Specification:-----	\$50.00 per 10,000 square foot building with \$50.00 being the minimum cost
5.18	Review of Range Hood Plans and Specifications:-----	\$50.00 per hood
5.19	Review of FM 200 Plans and Specifications:-----	\$100.00 per system
5.20	Review of AGST/LP Installation Plans and Specifications:----- (above ground storage tanks)	\$50.00 per tank
5.21	Review for Carpet Specifications of Certification/Approval:-----	\$20.00
5.22	Inspection of any building, structure, facility, etc. for the purpose of condemning same due to significant structural damage that would render the facility unsafe for human habilitation. (ex. Damage to structure as a result of fire, earthquake, landslide, flood, etc) -----	\$250.00/unit.

**103.2.6 Administration Fees**

6.1	Document Research:	
6.1.1	In office -----	\$10.00 per hour
6.1.2	In archives -----	\$25.00 per hour
6.2	Document Duplications:	
6.2.1	First Page-----	\$2.00
6.2.2	each additional page-----	\$.25
6.3	Copies of Public Records-----	\$10.00 per hour with a minimum of 1 hour, plus duplication/copy charges
6.4	Fire Department Mailing Labels-----	\$50.00 per set
6.5	Written confirmation of license/permits-----	\$25.00
6.6	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.	
6.7	Fire Investigation Reports-----	\$25.00
6.8	Fire Incident Reports-----	\$10.00