



Department of Military Affairs and Public Safety

Cabinet Secretary Jeff S. Sandy, CFE, CAMS
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June 7, 2018

Governor's Office
Attn: Manda Bickoff

Re: Regulatory Reform Executive Order 3-18 Report

Dear Ms. Bickoff:

As the State Fire Marshal and representing the State Fire Commission, I submit the following report based on the Governor's office issuance of a letter dated February 12, 2018 pertaining the Governor's Executive Orders on Regulatory Reform. I have listed all thirteen (13) Legislative Rules which either our agency promulgates (Title 103) or the State Fire Commission promulgates (Title 87). As directed each of the legislative rules will pertain the following:

- (1) a description of each rule, including the date of first promulgation and any subsequent modifications;
- (2) recommendations of whether the rule should be unchanged, modified or repealed; and
- (3) the reason(s) for the recommendation.

Title 87, Series 1, "State Fire Code"

Description: This rule establishes the State Fire Code for the safeguarding of life and property from the hazards of fire and explosion. Authority: W. Va. Code § 29-3-5.

Date of First Promulgation: 12/14/79

Subsequent Modifications: 3/30/84; 3/30/90; 4/3/91; 4/1/95; 5/1/98; 5/1/02; 5/15/06; 7/1/10; 7/1/14; 7/1/16

RECOMMENDATION: Modify

Reasons for Recommendation: Consider modification for 2020 Legislative Session after review and discussion of significant changes of 2018 National Fire Codes.

Title 87, Series 3, "Hazardous Substance Emergency Response Training Programs"

Description: These regulations establish the rules and regulations deemed necessary by the State Fire Commission for establishing criteria for qualified training programs in hazardous substance emergency response activities and procedures for such qualified training programs to be certified by the state fire marshal. Authority: WV Code §29-3-5a, §29-3-5d, §8-15a-5.

Date of First Promulgation: 6/2/87

Subsequent Modifications: 7/1/18

RECOMMENDATION: No Changes

Reasons for Recommendation: Modifications and Legislative Approval during 2018 session.

Title 87, Series 4, "State Building Code"

Description: This rule establishes the standards considered necessary by the State Fire Commission for the safeguarding of life and property and to ensure compliance with the minimum standards of safe construction of all structures erected or renovated throughout this state. Authority: W. Va. Code §29-3-5b.

Date of First Promulgation: 4/28/99

Subsequent Modifications: 4/3/91; 5/1/96; 6/1/97; 5/1/98; 4/1/03; 5/15/06; 4/1/07; 7/1/10; 9/1/13; 8/1/16

RECOMMENDATION: Modify

Reasons for Recommendation: Proposal for 2019 Legislative Session change to ASHRAE 90-1, 2010 edition. This proposed update was developed after review of specifications and discussion with a body of stakeholders. Future consideration shall be given for modifications; based on consideration and use future series and years of model codes.

Title 87, Series 5, "Certification of Home Inspectors"

Description: This rule establishes the procedures to be followed to assure that consumers of home inspection services can rely on the competence of home inspectors, as determined by educational and experience requirements and testing. In order to protect consumers, this rule defines home inspection, outlines what must be included in a home inspection, defines unethical conduct by home inspectors and creates penalties for prohibited acts. Authority: W. Va. Code §§29-3-5b(d) and 29-3-12(m).

Date of First Promulgation: 3/30/90

Subsequent Modifications: 8/1/06; 7/1/14

RECOMMENDATION: No Changes

Reasons for Recommendation: Modifications to be considered for future legislative sessions.

Title 87, Series 6, "Evaluation & Recognition of Local Fire Departments"

Description: These rules govern the requirements and procedures for certification or recognition of local fire departments by the State Fire Commission and the circumstances for the withdrawal of recognition by the Commission. This rule also delineates the scope of the powers and responsibilities of recognized local departments. Authority: West Virginia Code §§29-3-9(e), 29-3-5, and 29A-3-1 et seq.

Date of First Promulgation: 5/1/07

Subsequent Modifications: N/A

RECOMMENDATION: No Changes proposed at this time.

Reasons for Recommendation: Potential modifications could be made in the future pending the completion of report based on the direction of SB 625 from the 2018 Legislative Session pertaining to volunteer fire departments.

Title 87, Series 7, "Certification of Code Officials"

Description: 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. Authority: W. Va. Code § 29-3-5b.

Date of First Promulgation: 8/1/06

Subsequent Modifications: 7/1/09; 6/1/16

RECOMMENDATION: No Changes

Reasons for Recommendation:

Title 87, Series 8, "Volunteer Fire Fighters' Training Equipment and Operating Standards"

Description: This rule establishes minimum training levels for rescue and fire fighting for volunteer fire departments; minimum levels of equipment needed to protect life and property within fire service areas for volunteer fire departments; minimum performance standards the volunteer departments must meet in responses times, communications, levels of water flow and pressure; and other performance measures as considered

necessary to meet the overall goals of improved fire prevention and control for volunteer fire departments.

Authority: W. V. Code §29-3-5d

Date of First Promulgation: 9/6/13

Subsequent Modifications: 7/2/15

RECOMMENDATION: No Changes

Reasons for Recommendation: Potential modifications could be made in the future pending the completion of report based on the direction of SB 625 from the 2018 Legislative Session pertaining to volunteer fire departments.

Title 103, Series 1, "Certification of Electrical Inspectors"

Description: This rule establishes 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. Authority: W. Va. Code §29-3C-4.

Date of First Promulgation: 4/1/04

Subsequent Modifications: 7/1/14

RECOMMENDATION: No Changes

Reasons for Recommendation: Potential modifications maybe considered for the 2020 or 2021 legislative sessions due to development of new national standards (NFPA 1078 and NFPA 478)

Title 103, Series 2, "Fees for Licenses, Permits, Inspection, Plans Review & Other Services Rendered"

Description: This Legislative Rule establishes the fees to be charged by the State Fire Marshal for services rendered. Authority: W. Va. Code §29-3-12b.

Date of First Promulgation: 4/1/04

Subsequent Modifications: 6/1/05

RECOMMENDATION: No Changes

Reasons for Recommendation: Although the rule has not been modified since 2005, our agency has been able to use adequate financial stewardship to administer all necessary programs and services without any modification.

Title 103, Series 3, "Supervision of Fire Protection Work"

Description: This rule governs certification, fees, examinations, training, powers and duties of the West Virginia State Fire Marshal and penalties for violations in accordance with the applicable laws and statutes. Authority: W. Va. Code §29-3D-4

Date of First Promulgation: 7/1/08

Subsequent Modifications: 7/1/09; 7/1/15

RECOMMENDATION: No Changes

Reasons for Recommendation: Future modification may need to be considered to establish a license certification for sprinkler installation for one- and two-family dwellings due to those certifications being less than that of a commercial sprinkler installers.

Title 103, Series 4, "Regulations of Fireworks and Related Explosive Materials"

Description: This legislative rule governs the manufacture, transportation, storage, sale, and display of fireworks in this state in accordance with W. Va. Code § 29-3E-1 *et seq.* Authority: W. Va. Code §§ 29-3E-4(b)(4), 29-3E-5(a)(5), 29-3E-6(b)(4) and 29-3E-8(a).

Date of First Promulgation: 5/31/17

Subsequent Modifications:

RECOMMENDATION: No Changes

Reasons for Recommendation: N/A

Title 103, Series 5, "Supervision of Electrical Work" (previously Title 87, Series 2 which has been repealed)

Description: 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 work through licensure by the State Fire Marshal of the State Fire Commission. Authority: W. Va. Code '29-3B-5

Date of First Promulgation: (3/25/74 for 87-2 and 7/1/18 for 103-5)

Subsequent Modifications: 4/2/90; 7/1/93 of 87-2

RECOMMENDATION: No Changes

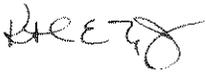
Reasons for Recommendation: Due to recent update which included a repeal of 87-2 and the legislative approval of 103-5 which was a replacement due to the rule being a State Fire Marshal and not a rule promulgated by the State Fire Commission.

It should be noted; that each of our identified rules have been implemented over the years based on several important factors that impact assurance of public safety and the protection of West Virginians and those that visit. The potential positive impact I feel each of the listed legislative rules insure personal responsibility, support business growth through the assurance for public safety, and an accountability and assurance of a qualified workforce in many industry sectors.

We commit to constant attention and involvement of all necessary stakeholders to insure the use of the best practices, use, and practical application of each of these rules are maintained with continued involvement in the Legislative Rule Making process.

If you have any questions or concerns relative to this report, please do not hesitate to contact me.

Respectfully submitted,



Kenneth E. Tyree Jr.
State Fire Marshal

Recommendations: APPROVAL OF SUBMITTAL

Jeff S. Sandy, CFE, CAMS
Cabinet Secretary, DMAPS

(Date)