



WEST VIRGINIA STATE FIRE COMMISSION
REQUIREMENTS FOR WEST VIRGINIA
FIRE DEPARTMENTS

Legal Authority: W.Va. Code § 15A-11-8 and W.Va. Code of State Rules Title 87, Series 6

Effective Date: April 14, 2023

Duration: This policy is effective until superseded or removed.

Approved: GRANT GUNNOE
Chairman

Date Approved: December 15, 2023

KENNETH E. TYREE JR.
State Fire Marshal

Impact of the Amended Policy:

The former “Requirements for West Virginia Fire Departments” is declared null and void. The policy may be removed and replaced with this document. The last amendment to this policy was October 22, 2014.

This policy incorporates the amendments to West Virginia Code of State Rules Title 87, Series 10 relating to volunteer fire department training and equipment grant funding disbursements; Title 87, Series 11 relating to Specialized Membership; Title 87, Series 12 relating to Junior Firefighters; Title 87, Series 13 relating to certification of fire chiefs. Incorporates Title 87, Series 8 provisions regulating volunteer firefighters’ training, equipment, and operating standards. Creates consistency in minimum training requirements among paid, combination and volunteer fire departments. All other direction in this policy remains essentially unchanged.

New Document	Requirements for West Virginia Fire Departments	70 Pages
Superseded Document(s) Effective Date	Requirements for West Virginia Fire Departments October 22, 2014	29 Pages

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STATEMENT OF PURPOSE

These requirements are intended to ensure adequate provision of fire protection services to the citizens of West Virginia; to meet the needs and goals set out in W.Va. Code § 15A-11-8; and to provide clear direction to Fire Departments in West Virginia.

This document provides the minimum requirements fire departments shall meet for the purpose of organizing their respective operations, personnel, equipment, training, and services.

As used in this document the term "shall" indicates a mandatory requirement.

As used in this document the terms "may" or "should" indicate a recommendation or that which is advised and referred to the fire department to address in accordance with the organization's governing documents.

This policy reflects what shall be considered minimum requirements for basic fire protection services. Fire departments shall not only meet these minimal requirements but should endeavor to surpass them.

SECTION ONE - CLASSIFICATION OF WEST VIRGINIA FIRE DEPARTMENTS

All Fire Departments will be classified. In the event a fire department appears to meet the definition of more than one (1) classification, the State Fire Commission may investigate and determine the appropriate classification for the Fire Department.

1.01. Paid Fire Departments

A "Paid Fire Department" is an organization that provides fire protection services to a specific geographic area and is under the direction of an Authority Having Jurisdiction. "Authority Having Jurisdiction" may be a municipal, county, or local government.

A Paid Fire Department is characterized by having Paid Firefighters. "Paid firefighters" are employees of the Fire Department or the Authority Having Jurisdiction which receive compensation on a regular full-time basis as set forth and described in W.Va. Code § 33-3-14d(c)(2). (See Appendix M) The employees of this organization may be covered under a Civil Service System such as those provided for W.Va. Code § 8-15-12 or § 7-1-3d.

1.02. Part Paid Fire Departments

A "Part Paid Fire Department" is an organization that provides fire protection services to a specific geographical area under the direction of an authority having jurisdiction. "Authority Having Jurisdiction" may be a private corporation, company, public corporation, or municipal, county, state, or federal level of government.

A Part-Paid Fire Department is a department where one or more of the firefighters receive compensation for working as a firefighter on a full-time, “per call”, or an hourly basis and does not include those defined as paid firefighters as set forth and described in W.Va. Code § 33-3-14d(c)(2).(See Appendix M). In addition to paid firefighters, the department also employs volunteer members.

1.03. Volunteer Fire Departments

A "Volunteer Fire Department" is an organization which provides fire protection services to a specific geographical area under the Authority Having Jurisdiction. The "Authority Having Jurisdiction" may be a private corporation, company, public corporation, or municipal, county, state, or federal level of government.

A Volunteer Fire Department is one in which all of the members donate their time without compensation.

1.04. Industrial Fire Brigade

A "Fire Brigade" is a segment of an industry which provides fire protection services to a specific geographical area under the Authority Having Jurisdiction. The "Authority Having Jurisdiction" may be a private corporation, company, public corporation or the federal government.

Fire Brigades that operate strictly on industrial facilities only are exempt from the requirements of this policy. Fire Brigades that operate and serve beyond industrial facilities shall meet the fire training requirements for volunteer fire departments of the State Fire Commission. If these same said departments operate hazardous material incidents, they shall meet the minimum requirements of the State Fire Commission based on their level of training provided for in NFPA 472.

1.05. County Fire Prevention Unit

A “County Fire Prevention Unit” shall mean an organization created under the provisions of W.Va. Code § 7-1-3d, which shall provide personnel or other resources to a municipal, volunteer, or other local fire department, pursuant to a valid Memorandum of Understanding between the County Fire Prevention Unit and the organization receiving the assistance.

In order for a Memorandum of Understanding under this section to be valid, it shall contain provisions agreed to by all fire departments involved in the agreement and must be properly reviewed and approved by the State Fire Commission.

SECTION TWO - FIRE DEPARTMENT ORGANIZATION

The National Fire Protection Association's current National Fire Codes may be used as minimum requirements relating to the organization, management, and operation of a fire department, its apparatus, equipment, personnel, and other related activities.

When a problem occurs which has not been addressed in the National Fire Protection Association's National Fire Codes, such problems shall be referred to the West Virginia State Fire Commission for resolution.

The State Fire Commission shall be considered the "Authority Having Jurisdiction" with regard to the following as set forth in W.Va. Code § 15A-11-8(h):

- 1) Fire prevention and control;
- 2) Uniform standards of performance, equipment and training;
- 3) Certification;
- 4) Training and education in fire service; and
- 5) The creation, operation, and responsibilities of fire departments throughout the state.

2.01. Organizational Documents

New Fire Departments shall be established only after the approval of the State Fire Commission as set for in 15A-11-8(c) and 87-6-1.

Existing Fire Departments shall meet and be in compliance with all applicable laws and statutes as set forth in 8-15-8a and shall include but not be limited to: (1) Submittal of fire loss data to the State Fire Marshal; and (2) Compliance with all equipment maintenance and certification, and all training standards for the certification of firefighters, fire officers, chief officers within the fire department.

Fire Departments shall develop and maintain the following documents within their files for review by the State Fire Commission or any authorized governmental entity:

- A. Constitution (articles of incorporation/municipal charter)
- B. By-laws (organizational structure, responsibilities, and overall operations)
- C. Rules and Regulations (day-to-day operational guidelines)

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

2.02. Financial Records

Fire Departments shall maintain a financial accounting record of all receipts and disbursements. Such records shall be maintained for a period prescribed by regulations of the Internal Revenue Service, WV State Tax Department, County Government, Municipal Ordinance, or any other applicable law, rule, or regulation.

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

2.03. Membership Records

Fire departments shall maintain a comprehensive record of each member's participation in the activities of the department. Such records may consist of, but not be limited to:

- A. response to emergencies;
- B. participation in training and maintenance of training records;

- C. attendance at business or other meetings;
- D. records of and participation in administrative functions;
- E. response and operation of any EMS-related operations of the department;
- F. other activities that enhance the operational capabilities of the fire department and;
- G. members' emergency medical information.

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

SECTION THREE - ADMINISTRATIVE PROCEDURES

3.01. General Fire Department Information

Fire Departments shall provide an annual funding application; listing requested items including but not limited to the number of their members/employees and their classification in accordance with Section One of these Requirements to the State Fire Commission by January 31st of each year.

Changes in any of the following shall be filed with the Office of the State Fire Commission within fourteen (14) days of the change: Chief, Fire Department address, telephone number(s) (business and emergency), electronic mail or website information.

Fire Departments shall respond as directed to requests and surveys requested by the State Fire Commission or State Fire Marshal.

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

SECTION FOUR – MEMBERSHIP

4.01. Benefits

Each department shall provide worker's compensation insurance coverage for all members and employees.

4.02. Classification of Fire Personnel

For the purpose of administering this policy, personnel shall be classified according to the following:

A. "Active members" means an individual that performs the function of fire prevention and suppression, or vehicle and machinery extrications when responding to emergency situations. Depending on the level(s) of training the active member has completed, active members may also perform the tasks and duties of hazardous materials response and mitigation, technical rescue, emergency medical services and any other duties that a specialized support member may provide if so trained.

- B. “Ancillary support member” means any person solely performing support, administrative, or day to day functions for the department. Under no circumstance shall an ancillary member perform any function which requires training for an active member or a specialized support member.
- C. “Approved Curriculum” means a curriculum for training approved by the West Virginia State Fire Commission.
- D. “Assistant Chief” otherwise known as “Deputy Chief” or as “Battalion Chief” means the second highest fire line officer(s) in charge of the fire department. May take on the responsibilities of the chief in his or her absence. A department may have more than one person filling this position.
- E. “Chief” means the highest-ranking fire line officer in charge of a fire department. The State Fire Commission may deny, suspend, or revoke certification of the fire chief as set forth in W. Va. Code 15A-11-8(j).
- F. “Department” or “Fire Department” means any firefighting response organization regulated by the West Virginia State Fire Commission. Department includes a fire company or fire brigade, provided that private or corporate fire company or brigades may be exempt from this policy.
- G. “Firefighter” means any active member of a fire department.
- H. “Fire Line Officer” means Chief, Assistant Chief, Deputy Chief, Battalion Chief, and other officers of the fire department or the third and fourth highest tiers in ranking in charge of the fire department and may take on the responsibilities of the chief or assistants in those person(s)’ absence.
- I. "Honorary Membership" is a special recognition bestowed upon an individual for reasons determined by the membership of the department, this individual may not participate on a regular basis in the day-to-day operations of the department.
- J. “Junior Members” are those individuals who are not less than 16 years of age but less than 18 years of age. Juniors shall not participate in any activity of the department considered to be hazardous. Fire Department Officials shall review State and Federal law as well as the Attorney General's opinion of January 17, 1990, regarding Junior Firefighter participation in the fire department. W. Va. Code § 21-6-2 requires all junior firefighters to complete Firefighter I, or its equivalent, and have the written consent of parent(s) or guardian(s).

K. “Specialized Support Member” means any person responding solely for the purpose of performing emergency medical services, hazardous materials mitigation, specialized rescue, or other specialized units approved by the State Fire Commission.

L. "Support Members" are individuals who provide ancillary assistance to fire departments and may include search and rescue team members, dive team members, or any other type of special, non-firefighting-related support to the department in support of its scope of operations (such as administrative members who do not respond to fires).

SECTION FIVE - CERTIFICATION AND TRAINING

5.01 *National Incident Management System (NIMS)*

All firefighters, fire officers and chief officers covered under this policy shall meet or exceed the NIMS training as provided in the current version of “NIMS Guidelines for West Virginia” (see Appendix N) established by the West Virginia Emergency Management.

5.02. *Volunteer, Part-Paid and County Fire Prevention Unit Firefighter Certification and Training*

Volunteer Firefighters certification, training and equipment requirements shall be set forth in the legislative Rule contained in Title 87, Series 8 of the West Virginia Code of State Rules. Volunteer, Part-Paid Departments, and County Fire Prevention Units shall satisfy the same requirements therein.

5.03. *Paid Firefighter Certification and Training*

All original appointments in a paid fire department subject to the civil service provisions of section sixteen, article fifteen, chapter eight of this code, made after June 12, 1987, shall enroll, and complete the requirements as registered with the bureau of apprenticeship and training of the United States department of labor, for the craft of firefighting. All firefighters certified by the Fire Commission prior to the effective date of this policy shall remain certified to the level previously granted by the Fire Commission. All paid fire department personnel shall meet the following minimum NIMS, NFPA or State Fire Commission approved equivalent certification levels:

5.03.01 Structural

A. Paid Firefighter:

100% Active Firefighting Personnel must attain NFPA 1001 or State Fire Commission approved Firefighter I; approved First Aid/CPR; and Hazardous Materials Awareness

100% Active Firefighting Personnel must attain NFPA 1001 or State Fire Commission approved Level II

* Must be completed within three (3) years of date of hire.

B. Paid Fire Officer:

All Company Level Officers must attain 1021; or State Fire Commission approved Fire Officer Level I; or have completed the U.S. Department of Labor Apprenticeship Program as a Journeyman Firefighter and be in compliance with WV Code § 8-15-22.

All Chief Level Officers must attain 1021 or State Fire Commission approved Fire Officer Level II

- All previous firefighter and fire officer training will be recognized by the State Fire Commission to the level for which it is equivalent. The West Virginia Department of Education or the WVU Fire Service Extension officer will issue certificates of equivalency for purposes of compliance to these requirements only.
- Instructor certification is required by NFPA for national certification at the Fire Officer I and II levels. Instructor certification is not required for Fire Commission approved Fire Officer I and II certification for any fire departments and members participating in Fire Officer certification.

C. Paid Driver / Operator:

Operators of paid fire department vehicles shall meet the meet the minimum requirements of the Emergency Vehicle Operations Course. Operators of fire department apparatus should meet the appropriate section of NFPA 1002, or WVSFC approved equivalent for the type of apparatus operated. The purpose of 1002 is to specify the minimum job performance requirements for service as a fire department emergency vehicle driver who is also a pump operator, aerial operator, tiller operator, wildland apparatus operator, aircraft rescue and fire- fighting apparatus operator and/or mobile water supply apparatus operator.

5.03.02. Paid Aircraft/Crash/Rescue

Paid Departments where aircraft/crash/rescue (*Aircraft Rescue and Fire Fighting*) is a primary function should meet the following minimum NFPA levels of personnel certification:

- A. Firefighter: All Active Firefighting Personnel must attain 1003
- B. Fire Officers: All Company Level Officers must attain 1021 Fire Officer Levels I & II
- C. All Chief Level Officers must attain 1021 Fire Officer Level III
- D. Chief of the department must attain 1021 Fire Officer Level IV

5.03.03. Paid Staff or Company Level Officers

Paid Fire Departments that have personnel designated as fire inspector, fire investigator, and fire instructor should meet the following minimum certification standards:

A. Fire Inspector

All fire department personnel who perform fire inspection duties shall complete and be under a department training program which includes but not be limited to: fire inspection/code enforcement courses from NFPA, the National Fire Academy, or its equivalent beginning on the first day of being assigned the said duties. Each specific department personnel should be enrolled NFA course within the first 18 months of assignment. These personnel shall meet the requirements of NFPA 1031 in their course, curriculum, and certification completions.

B. Fire Investigator

All fire department personnel who perform fire investigative duties shall complete and be under a department training program which includes but not be limited to: NFPA, IAAI, and Fire/Arson Investigation courses from the National Fire Academy, or its equivalent beginning on the first day of being assigned the said duties. Each specific department personnel should be enrolled within the first 18 months of assignment. These personnel shall meet the requirements of NFPA 1033 in their course, curriculum, and certification completions.

C. Fire Instructor

All fire department personnel who perform fire instructor duties should meet the requirements of NFPA 1041 or its equivalent.

5.03.04. Paid Self-Contained Breathing Apparatus (SCBA) Repair Personnel

At least one (1) member in the paid fire department shall be certified as a repair person for SCBA or departments may show evidence of an agreement or contract with, or yearly documentation of testing by a qualified repairman or firm/shop to provide such services.

For the purposes of this Policy, all SCBA equipment used by any department, or any member thereof, shall be positive pressure.

5.03.05 Paid Hazardous Materials

Paid fire department members and officers shall be trained in NFPA 472, Professional Competence of Responders to Hazardous Materials/Weapons of Mass Destruction Incidents. All Fire Department personnel shall be certified at the Awareness level. Paid fire department personnel that operate at hazardous materials incidents must minimally meet U.S. Environmental Protection Agency and U.S. Occupational Safety, Health Administration requirements, and NFPA 472 for response at Operations and/or Technicians level.

Additional training should be at the discretion of the fire chief based on possible involvement with hazardous materials incidents unless otherwise directed by federal or state statutes, rules and/or regulations.

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

5.04. Curriculum Approval

In order for Volunteer and Part-Paid firefighter training curriculum to be approved by the Fire Commission, the established protocol and procedures must be met as set forth in the “Volunteer Firefighters’ Training, Equipment and Operating Standards” Legislative Rule provided W.Va. Code R. § 87-8-1 *et seq.*

In order for Paid firefighter training curriculum to be approved by the Fire Commission, the training agency must provide the curricula for the proposed course for review and approval. All proposed curricula shall be provided to the Fire Commission Training Committee for consideration to ensure compliance with the correlating NFPA standard. If the curriculum is rejected, a written explanation of the decision shall be provided to the respective training agency.

If the Training Committee approves the curriculum, it shall be forwarded to the full Fire Commission to vote whether to accept or reject the curriculum. The training agency shall be notified of the decision of the Fire Commission along with an effective date by which the training may be offered if approved.

5.06. Equivalency Requirements

5.06.01 IFSAC and ProBoard Equivalency.

Individuals holding certification accredited by the International Fire Service Accreditation Congress (IFSAC) or the National Board on Fire Service Professional Qualifications (ProBoard) must comply with the following guidelines:

An IFSAC or ProBoard applicant must complete the appropriate application and attach supporting documentation through either the certification division of West Virginia University Fire Service Extension or to the West Virginia Department of Education.

The applicant must be a member of a West Virginia State Fire Commission recognized fire department and must have the signature of the Fire Chief in order to request reciprocity.

5.06.02 Non IFSAC or ProBoard Equivalency.

Individuals not holding certification accredited by the International Fire Service Accreditation Congress (IFSAC) or the National Board on Fire Service Professional Qualifications (ProBoard) must comply with the following guidelines:

Applicant must complete the appropriate application and attach supporting documentation through the certification division of West Virginia University Fire Service Extension or through the West Virginia Department of Education.

The applicant must be a member of a West Virginia State Fire Commission recognized fire department and must have the signature of the Fire Chief in order to request reciprocity.

Applicant must submit documentation of training and testing that complies with each component of the appropriate NFPA Standard for the desired level of certification. Documentation must be dated within the last 5 years.

If documentation is insufficient, applicant must successfully pass a certification written exam with a minimum score of 70% for the desired level of certification and practical skills exam, where applicable.

Applicant must meet the general requirements for certification as outlined by the West Virginia State Fire Commission.

The West Virginia University Fire Service Extension Certification Division or the West Virginia Department of Education will review and verify all documentation. Once documentation has been reviewed and verified to meet the certification criteria, the candidate will be issued reciprocity. If documentation does not meet the certification requirements, the candidate will be denied reciprocity. The candidate would then be required to complete an approved training program and meet all certification requirements including but not limited to, passing written and practical skills certification exams.

5.06.03 Fire Officer I and II Equivalency.

Applicants seeking Fire Officer I/Fire Officer II equivalency shall submit:

A portfolio outlining the certification being sought and associated files containing the Job Performance Requirements which meet the respective NFPA 1021 standard.

A list of all current training and certifications courses which were taken to achieve the equivalent certification.

Where applicable for paid Fire Departments: a U.S. Department of Labor Apprenticeship program, Journeyman Firefighter certification (For Fire Officer I equivalency only).

If the equivalency application is refused or denied, the applicant may apply to the Commission, pursuant to the same process as set forth in W.Va. Code of State Rules Title 87, Series 6, Section 12 seeking a hearing on the merits of the application, and the Commission shall issue a final decision upon the application.

SECTION SIX - OPERATIONAL REQUIREMENTS

6.01. In-House Documents

Fire Departments shall operate in accordance with their Constitution, Bylaws, Rules and/or Regulations.

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

6.02. National Fire Incident Reporting System

The State Code (W.Va. Code § 8-15-3a; §33-3-33) and the State Fire Code (W.Va. Code § 15A-11-3; W.Va. Code R. § 87-1-3 et seq.) require every fire department to report fire loss data to the State Fire Marshal's Office. Fire Departments shall report to the State Fire Marshal no later than 90 days from the incident, not including the grace period which is allowed by statute, all fire and non-fire incidents through the National Fire Incident Reporting System.

6.03 Communications

Each fire department shall make provisions for the receipt of alarms and the notification of members of all emergency calls received.

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

6.04. Fire Protection District

In cooperation with bordering department(s), each fire department or county fire protection district shall prepare a map outlining their "first response" area and submit one (1) copy to the State Fire Commission for review and approval.

These records shall be retained by the fire department, fire protection district and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

6.05. Rating for Fire Insurance Purposes

Fire departments, within their first response areas, shall achieve at least the minimal classification for a municipality or a rural fire protection district as determined by the Insurance Service Office.

6.06. Public Fire Safety Education Program

All fire departments in this State shall have a fire safety program to educate the public in prevention and reduction of fire risks. The program should assist the respective community in gaining the knowledge and skills they need to lead safer lives.

SECTION SEVEN - APPARATUS AND EQUIPMENT

7.01. Vehicle Maintenance

Each department shall maintain documentation of routine inspections and maintenance for all apparatus and equipment, including emergency repairs to include but not be limited to vehicle inspection stickers, emergency vehicle permits (EVPs). These records shall be maintained by the department and made available, if requested, to an appropriate governmental entity.

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

7.02. Buildings Housing Apparatus and Equipment

Buildings that are used for and house apparatus and equipment storage shall be of adequate size, heated, and lighted adequately. Each building shall meet the minimum requirements of the State Fire Code applicable at the time of its construction.

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

7.03. National Apparatus Standards

Apparatus shall meet the National Fire Protection Association (NFPA), National Institute of Occupational Safety and Health (NIOSH), and the Occupational Safety and Health Administration (OSHA) standards applicable at the time of manufacture, as appropriate.

If an apparatus is not capable of transporting the required equipment, as set forth in this Policy, to an emergency scene, a written plan must be kept on file, and be capable of being produced upon demand to the Fire Commission, Fire Marshal, or overseeing governmental agency, setting forth a detailed procedure for transporting all necessary equipment to the emergency scene, which shall be strictly adhered to. The plan not being able to be produced, or the plan not being adhered to is a violation of this standard and may result in revocation of the department's certification.

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

7.04. *Testing*

All fire pumps and hose shall be tested annually for compliance with nationally recognized standards. Records shall be maintained of such tests in accordance with this policy.

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

7.05. *Acquisition and Replacement of Apparatus*

Each department may prepare a long-range program for the purchase and replacement of apparatus and equipment.

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

7.06 *Minimum Equipment and Performance*

Minimum equipment and performance for Volunteer and Part-Paid fire departments must adhere to the provisions set forth in the “Volunteer Firefighters’ Training, Equipment and Operating Standards” Legislative Rule provided in W.Va. Code R. § 87-8-1 *et seq.*

Paid fire department minimum equipment and performance shall meet the listed equipment as defined by apparatus set forth in *Appendix B – Pumper Fire Apparatus, Appendix C – Aerial Fire Apparatus, Appendix D – Mobile Water Supply Fire Apparatus, and Appendix E – Special Service Fire Apparatus*.

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

SECTION EIGHT - MUTUAL AID

Fire Departments shall develop mutual aid agreements with neighboring fire departments. Each fire department shall forward one (1) copy of such agreement and any subsequent changes to the State Fire Commission within thirty (30) days from when agreements are finalized. If a county-wide agreement exists, one (1) plan shall be submitted to the State Fire Commission by the County Government Organization.

These records shall be retained by the fire department and/or their governing Authority Having Jurisdiction in accordance with *Appendix A- Record Retention*.

SECTION NINE – MISCELLANEOUS

Each fire department should:

- subscribe to and make available to its members at least one (1) nationally recognized professional/technical fire trade publication.
- be an active member in their respective county fire service organization.
- be an active member in at least one of the state fire service organizations.
- be a member of one of the national fire service organizations.

SECTION 10- COMPLIANCE

All Fire Departments throughout the State are evaluated for compliance as set forth in W.Va. Code Rules § 87-6-1 et seq. (see Appendix F).

All Fire Departments are encouraged to perform their own self-evaluations on the off years that their evaluation is not performed by the State Fire Marshal.

To review all evaluation forms used in conducting evaluations, please go to the WV State Fire Marshal's Office website at: <https://firemarshal.wv.gov/Divisions/Fire%20Services/fire-department-services-division/Pages/Fire-Department-Evaluations.aspx>

These requirements are enforced by the West Virginia State Fire Commission, through the West Virginia State Fire Marshal.

Failure to maintain minimum levels of performance in training, equipment maintenance and performance standards in this rule shall make the department subject to removal of its certification, as set forth in W.Va. Code Rules § 87-6-1 et seq.; *Provided That*, except in situations of imminent danger to life or property, upon application, the Commission shall grant a department a 180 day period of correction, which may be extended upon good cause shown, during which the Commission shall assist a fire department in correcting deficiencies noted, facilitating training through West Virginia University or the West Virginia Department of Education, and in working with other involved parties, e.g. county commissions, municipal governments or county fire boards.

Complaints and Investigations procedures; Right to Hearings; and Disciplinary Powers of the State Fire Commission shall be followed as set forth in 87csr6 (See Appendix F):

APPENDIX A - RECORD RETENTION
RECORD RETENTION PERIOD (In Years)

Fire Management **10**

Administrative (Includes policy and procedures, correspondence and memorandums related to levels of administration for employees of all disciplines.)

Training Standards (Includes policy and procedures, correspondence and memorandums related to levels of training standards for employees of all disciplines.)

Health and Safety Standards (Includes policy and procedures, correspondence and memorandums related to levels of health and safety standards for employees of all disciplines.)

Departmental Organization

Fire Prevention (Includes general related correspondence.) **7**

Pre-Plans

Cooperative Fire Prevention Program

Presuppression Management

Fire Suppression **7**

Fire Reports (Including NFIRS input data, components of the documentation narrative reports, action plans, maps, fire situation analyses and other records that have long-term value.)

Option 1: Cutoff or close at end of calendar year in which the report is submitted.

OR

Option 2: Individual fire reports may be maintained and transferred to NFIRS.

Records documenting significant events, actions taken, lessons learned, and other information with long-term value for fire prevention and safety, such as:

fire narrative and summary reports, final situation analyses, delegation of authority, incident action plans, Fire Behavior Analyst reports, field weather data not captured electronically, news articles and media releases, fire progression and final fire

perimeter maps, photos, and infrareds necessary to document resource impact and lessons learned.

Other records may include those relating to joint operations and/or mutual aid; copies of incident reports and analyses prepared by agencies other than the Incident Management Team or host unit, or other agencies that support management decisions; records documenting significant interactions with communities affected by the incident; and selected reports or notes pertaining to high-level management, entrapment reports and security issues that have not been incorporated into the fire narrative.

Records documenting the administrative and operational actions taken in the management of the incident, such as daily action plans, internal briefings, status summary reports, inspection checklists, unit logs, worksheets, inventories, resource orders, demobilization plans and checkout, cost estimates, agreements, fire behavior messages and forecasts, raw weather data captured elsewhere, safety reports and accident logs, firing plans, individual unit narratives, photos without long-term value, and similar records pertaining to logistics, resources, air operations, safety, and demobilization, which document decisions and activities with near-term importance, claims, payments, and litigation support.

Fleet and Fuel Management (Including mileage logs, fuel purchase receipts, fuel purchase records, vehicle maintenance records, short and long-term fuel purchase agreements

Investigation (Includes general correspondence and records pertaining to types of investigations, procedures, reporting, and directions.) **10**

Investigation Procedures (Includes records pertaining to procedures involving suspect's rights, recording equipment, statement procedures, evidence, and other related records.)

Reports (Includes the Law Enforcement Reports, Cooperative Law Enforcement Activity, and Annual Report.

Case Reports (Includes case files containing data which enables reviewing officials and attorneys to access the prosecutive merits of a case to present in court. Investigations related to Arson or explosion incidents, as well as fraud, abuse, and misuse by personnel.

Action and Procedures (Includes records and reports pertaining to violation prevention and enforcement, including related activities with Federal, State, and local law enforcement agencies.)

Equipment (Includes documents, correspondence, memorandums and other records related to **7**

all equipment.)

Donations (Including bank records, statements, correspondence, purchase agreements, contracts, land surveys, grants, patents, deeds, deed of trust or mortgage, title insurance policy, abstract of title, certificate of title, deed of trusts, or other such related documents.) **10**

Financial Condition (Including bank records, statements, correspondence, purchase agreements, contracts, land surveys, grants, patents, deeds, deed of trust or mortgage, title insurance policy, abstract of title, certificate of title, deed of trusts, or other such related documents.) **10**

Purchases (Including contracts, agreements, statements, correspondence, survey, deeds, condemnation documents where applicable, appeals, other title evidence, and related documents.) **10**

Exchanges (Including correspondence, letters of negotiation, explanatory notes, exchange agreements, proposals, plans, or contracts, appraisals, appeals, objections and related decisions, land descriptions, field examinations, surveys, certificates of possessions, statements of intent, environmental assessments, statements of value and appraisal, statements of disposal, certificates of title or title insurance policy, certifications and proof of publications, and other related documents.) **10**

Partial Land Interests (Includes correspondence evaluations, appraisals, scenic or conservation easements, mineral deeds, documentation of compliance, environmental assessments or statements, mortgages, deeds of trust and vendors liens, leases, and related documents.) **10**

Boundary Modifications (Consummated and unconsummated agreements containing the information which gives background rationale for establishing modifications which include the public's **10**

interest, resources involved, and the intent of agreement.)

Land Transfers (Consummated and unconsummated case files which contain analyses of land transfer or Interchange proposals; related correspondence; environmental analyses; related correspondence; environmental analyses, reservoir projects; public domain and government property; copies of authorizing documents of transfers or interchanges.) **10**

Construction and Use Agreements and Supplements (Case files pertaining to road right-of-way construction and use agreements with other landowners or land administering agencies for joint development and use of roads and road systems. Includes supplements to the agreement, correspondence, and related documents.) **10**

Sales and Grants (Includes correspondence, maps, environmental assessments, deeds, appraisals, grants, certified letters, affidavits, land classification studies and maps, bills of sale, tax assessment records, sale notices, notices of award, appeals, and related documents.) **10**

Landownership Status (Correspondence concerning the status of lands.) **10**

Electronic Data ***3-10**
(*Dependent on the records being retained, will determine retention time)

Electronic copies of records that are created on electronic mail and word processing systems and used solely to generate a recordkeeping copy of the records covered by the other items in this schedule. This also includes electronic copies of records created on electronic mail and word processing systems that are maintained for updating, revision, or dissemination.

Copies that have no further administrative value after the recordkeeping copy is made. This includes copies maintained by individuals in personal files, personal electronic mail directories, or other personal directories on hard disk or network drives, and copies on shared network drives that are used only to produce the recordkeeping copy.

APPENDIX B - PUMPER FIRE APPARATUS

Ladders. The following fire department ground ladders shall be carried on the apparatus:

- (1) One straight ladder equipped with roof hooks
- (2) One extension ladder
- (3) One folding ladder

Stepladders and other types of multipurpose ladders meeting ANSI A14.2, Ladders — Portable Metal — Safety Requirements, or ANSI A14.5, Ladders — Portable Reinforced Plastic — Safety Requirements, with duty ratings of Type 1A or 1AA shall be permitted to be substituted for the folding ladder required in 5.7.1.2(3).

Fire Hose and Nozzles. The following fire hose and nozzles shall be carried on the apparatus:

- (1) 800 ft (240 m) of 2½ in. (65 mm) or larger fire hose
- (2) 400 ft (120 m) of 1½ in. (38 mm), 1¾ in. (45 mm), or 2 in. (52 mm) fire hose
- (3) One handline nozzle, 200 gpm (750 L/min) minimum
- (4) Two handline nozzles, 95 gpm (360 L/min) minimum
- (5) One playpipe with shutoff and 1 in. (25 mm), 1 in. (29 mm), and 1¼ in. (32 mm) tips

The following additional equipment shall be carried on the apparatus:

- (1) One 6 lb (2.7 kg) flathead axe mounted in a bracket fastened to the apparatus
- (2) One 6 lb (2.7 kg) pick head axe mounted in a bracket fastened to the apparatus
- (3) One 6 ft (2 m) pike pole or plaster hook mounted in a bracket fastened to the apparatus
- (4) One 8 ft (2.4 m) or longer pike pole mounted in a bracket fastened to the apparatus
- (5) Two portable hand lights mounted in brackets fastened to the apparatus
- (6) One approved dry chemical portable fire extinguisher with a minimum 80-B:C rating mounted in a bracket fastened to the apparatus
- (7) One 2½ gal (9.5 L) or larger water extinguisher mounted in a bracket fastened to the apparatus
- (8) One self-contained breathing apparatus (SCBA) complying with NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services, for each assigned seating position, but not fewer than four, mounted in brackets fastened to the apparatus or stored in containers supplied by the SCBA manufacturer
- (9) One spare SCBA cylinder for each SCBA carried, each mounted in a bracket fastened to the apparatus or stored in a specially designed storage space
- (10) One first aid kit
- (11) Four combination spanner wrenches mounted in brackets fastened to the apparatus
- (12) Two hydrant wrenches mounted in brackets fastened to the apparatus

- (13) One double female 2½ in. (65 mm) adapter with National Hose (NH) threads, mounted in a bracket fastened to the apparatus
- (14) One double male 2½ in. (65 mm) adapter with NH threads, mounted in a bracket fastened to the apparatus
- (15) One rubber mallet, suitable for use on suction hose connections, mounted in a bracket fastened to the apparatus
- (16) Two salvage covers each a minimum size of 12 ft × 14 ft (3.7 m × 4.3 m)
- (17) Two or more-wheel chocks, mounted in readily accessible locations, that together will hold the apparatus, when loaded to its GVWR or GCWR, on a hard surface with a 20 percent grade with the transmission in neutral and the parking brake released
- (18) One traffic vest for each seating position, each vest to comply with ANSI/ISEA 207, Standard for High-Visibility Public Safety Vests, and have a five-point breakaway feature that includes two at the shoulders, two at the sides, and one at the front
- (19) One automatic external defibrillator (AED)

It is recommended that the following be carried on the apparatus:

A: Five fluorescent orange traffic cones not less than 28 in. (711 mm) in height, each equipped with a 6 in. (152 mm) retroreflective white band no more than 4 in. (102 mm) from the top of the cone, and an additional 4 in. (102 mm) retroreflective white band 2 in. (51 mm) below the 6 in. (152 mm) band

B: Five illuminated warning devices such as highway flares, unless the five fluorescent orange traffic cones have illuminating capabilities

*** If the supply hose carried does not use sexless couplings, an additional double female adapter and double male adapter, sized to fit the supply hose carried, shall be carried mounted in brackets fastened to the apparatus.

*** If none of the pump intakes are valved, a hose appliance that is equipped with one or more gated intakes with female swivel connection(s) compatible with the supply hose used on one side and a swivel connection with pump intake threads on the other side shall be carried. Any intake connection larger than 3 in. (75 mm) shall include a pressure relief device.

*** If the pumper is equipped with an aerial device with a permanently mounted ladder, four ladder belts meeting the requirements of NFPA 1983, Standard on Life Safety Rope and Equipment for Emergency Services, shall be provided.

*** If the apparatus does not have a 2½ in. intake with NH threads, an adapter from 2½ in. NH female to a pump intake shall be carried, mounted in a bracket fastened to the apparatus if not already mounted directly to the intake.

*** If the supply hose carried has other than 2½ in. NH threads, adapters shall be carried to allow feeding the supply hose from a 2½ in. NH thread male discharge and to allow the hose to connect to a 2½ in. NH female intake, mounted in brackets fastened to the apparatus if not already mounted directly to the discharge or intake.

APPENDIX C - AERIAL FIRE APPARATUS

Ground Ladders. As a minimum, the following types of ladders shall be provided:

- (1) One folding ladder
- (2) Two straight ladders (with folding roof hooks)
- (3) Two extension ladders

Stepladders and other types of multipurpose ladders meeting ANSI A14.2, Ladders — Portable Metal — Safety Requirements, or ANSI A14.5, Ladders — Portable Reinforced Plastic — Safety Requirements, with duty ratings of Type 1A or 1AA shall be permitted to be substituted for the folding ladder

Aerial fire apparatus shall be equipped with at least the following equipment:

- (1) Two 6 lb (2.7 kg) flathead axes mounted in brackets fastened to the apparatus
- (2) Three 6 lb (2.7 kg) pick head axes mounted in brackets fastened to the apparatus
- (3) Four pike poles mounted in brackets fastened to the apparatus
- (4) Two 3 ft to 4 ft (1 m to 1.2 m) plaster hooks with D handles mounted in brackets fastened to the apparatus
- (5) Two crowbars mounted in brackets fastened to the apparatus
- (6) Two claw tools mounted in brackets fastened to the apparatus
- (7) Two 12 lb (5 kg) sledgehammers mounted in brackets fastened to the apparatus
- (8) Four portable hand lights mounted in brackets fastened to the apparatus
- (9) One approved dry chemical portable fire extinguisher with a minimum 80-B:C rating mounted in a bracket fastened to the apparatus
- (10) One 2½ gal (9.5 L) or larger water extinguisher mounted in a bracket fastened to the apparatus
- (11) One SCBA complying with NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services, for each assigned seating position, but not fewer than four, mounted in brackets fastened to the apparatus or stored in containers supplied by the SCBA manufacturer
- (12) One spare SCBA cylinder for each SCBA carried, each mounted in a bracket fastened to the apparatus or stored in a specially designed storage space(s)
- (13) One first aid kit
- (14) Six salvage covers, each a minimum size of 12 ft × 18 ft (3.6 m × 5.5 m)
- (15) Four combination spanner wrenches mounted in brackets fastened to the apparatus
- (16) Two scoop shovels mounted in brackets fastened to the apparatus
- (17) One pair of bolt cutters, 24 in. (0.6 m) minimum, mounted in a bracket fastened to the apparatus
- (18) Four ladder belts meeting the requirements of NFPA 1983, Standard on Life Safety Rope and Equipment for Emergency Services
- (19) One 150 ft (45 m) light-use life safety rope meeting the requirements of NFPA 1983
- (20) One 150 ft (45 m) general-use life safety rope meeting the requirements of NFPA 1983

- (21) Two 150 ft (45 m) utility ropes having a breaking strength of at least 5000 lb (2300 kg)
- (22) One box of tools to include the following:
 - (a) One hacksaw with three blades
 - (b) One keyhole saw
 - (c) One 12 in. (0.3 m) pipe wrench
 - (d) One 24 in. (0.6 m) pipe wrench
 - (e) One ballpeen hammer
 - (f) One pair of tin snips
 - (g) One pair of pliers
 - (h) One pair of lineman's pliers
 - (i) Assorted types and sizes of screwdrivers
 - (j) Assorted adjustable wrenches
 - (k) Assorted combination wrenches
- (23) Two or more-wheel chocks, mounted in readily accessible locations, that together will hold the apparatus, when loaded to its GVWR or GCWR, on a hard surface with a 20 percent grade with the transmission in neutral and the parking brake released
- (24) One traffic vest for each seating position, each vest to comply with ANSI/ISEA 207, Standard for High-Visibility Public Safety Vests, and have a five-point breakaway feature that includes two at the shoulders, two at the sides, and one at the front
- (25) One automatic external defibrillator (AED)

**If the aerial fire apparatus is equipped with a fire pump, the following shall apply.
The following equipment shall be provided:**

- (1) One double female 2½ in. (65 mm) adapter with National Hose (NH) threads, mounted in a bracket fastened to the apparatus
 - (2) One double male 2½ in. (65 mm) adapter with NH threads, mounted in a bracket fastened to the apparatus
 - (3) One rubber mallet, for use on suction hose connections, mounted in a bracket fastened to the apparatus
 - (4) Two hydrant wrenches mounted in brackets fastened to the apparatus
- *** The supply hose carried does not use sexless couplings, an additional double female adapter and double male adapter, sized to fit the supply hose carried, shall be carried mounted in brackets fastened to the apparatus.
- *** If none of the pump intakes are valved, a hose appliance that is equipped with one or more gated intakes with female swivel connection(s) compatible with the supply hose used on one side and a swivel connection with pump intake threads on the other side shall be carried. Any intake connection larger than 3 in. (75 mm) shall include a pressure relief device that meets the requirements of 16.6.6.
- *** If the apparatus does not have a 2½ in. intake with NH threads, an adapter from 2½ in. NH female to a pump intake shall be carried, mounted in a bracket fastened to the apparatus if not already mounted directly to the intake.

*** If the supply hose carried has other than 2½ in. NH threads, adapters shall be carried to allow feeding the supply hose from a 2½ in. NH thread male discharge and to allow the hose to connect to a 2½ in. NH female intake, mounted in brackets fastened to the apparatus if not already mounted directly to the discharge or intake.

It is recommended that the following be carried on the apparatus:

Five fluorescent orange traffic cones not less than 28 in. (711 mm) in height, each equipped with a 6 in. (152 mm) retroreflective white band no more than 4 in. (102 mm) from the top of the cone, and an additional 4 in. (102 mm) retroreflective white band 2 in. (51 mm) below the 6 in. (152 mm) band

Five illuminated warning devices such as highway flares, unless the five fluorescent orange traffic cones have illuminating capabilities

APPENDIX D - MOBILE WATER SUPPLY FIRE APPARATUS

Required Equipment. The following fire hose and nozzles shall be carried on the apparatus:

The mobile water supply apparatus shall be equipped with at least 200 ft (60 m) of 2½ in. (65 mm) or larger fire hose.

If the mobile water supply apparatus is equipped with a fire pump, the following shall be provided:

(1) 400 ft (120 m) of 1½ in. (38 mm), 1¾ in. (45 mm), or 2 in. (52 mm) fire hose

(2) Two handline nozzles, 95 gpm (360 L/min) minimum

One 6 lb (2.7 kg) flathead or pick head axe mounted in a bracket fastened to the apparatus

(One 6 ft (2 m) or longer pike pole or plaster hook mounted in a bracket fastened to the apparatus

Two portable hand lights mounted in brackets fastened to the apparatus

One approved dry chemical portable fire extinguisher with a minimum 80-B:C rating mounted in a bracket fastened to the apparatus

One 2½ gal (9.5 L) or larger water extinguisher mounted in a bracket fastened to the apparatus

One SCBA complying with NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services, for each assigned seating position, but not fewer than two, mounted in brackets fastened to the apparatus or stored in containers supplied by the SCBA manufacturer

(One spare SCBA cylinder for each SCBA carried, each mounted in a bracket fastened to the apparatus or stored in a specially designed storage space(s)

One first aid kit

Two combination spanner wrenches mounted in a bracket fastened to the apparatus

One hydrant wrench mounted in a bracket fastened to the apparatus

One double female adapter, sized to fit 2½ in. (65 mm) or larger fire hose, mounted in a bracket fastened to the apparatus

One double male adapter, sized to fit 2½ in. (65 mm) or larger fire hose, mounted in a bracket fastened to the apparatus

Two or more wheel chocks, mounted in readily accessible locations, that together will hold the apparatus, when loaded to its GVWR or GCWR, on a hard surface with a 20 percent grade with the transmission in neutral and the parking brake released

One traffic vest for each seating position, each vest to comply with ANSI/ISEA 207, Standard for High-Visibility Public Safety Vests, and have a five-point breakaway feature that includes two at the shoulders, two at the sides, and one at the front

One automatic external defibrillator (AED)

It is recommended that the following be carried on the apparatus:

Five fluorescent orange traffic cones not less than 28 in. (711 mm) in height, each equipped with a 6 in. (152 mm) retroreflective white band no more than 4 in. (102

mm) from the top of the cone, and an additional 4 in. (102 mm) retroreflective white band 2 in. (51 mm) below the 6 in. (152 mm) band

Five illuminated warning devices such as highway flares, unless the five fluorescent orange traffic cones have illuminating capabilities

*** If the mobile water supply apparatus is equipped with a fire pump and none of the pump intakes are valved, a hose appliance that is equipped with one or more gated intakes with female swivel connection(s) compatible with the supply hose used on one side and a swivel connection with pump intake threads on the other side shall be carried. Any intake connection larger than 3 in. (75 mm) shall include a pressure relief device.

*** If the mobile water supply apparatus is equipped with a fire pump, a rubber mallet for use on suction hose connections shall be carried in a bracket fastened to the apparatus.

*** If the apparatus does not have a 2½ in. intake with NH threads, an adapter from 2½ in. NH female to a pump intake shall be carried, mounted in a bracket fastened to the apparatus if not already mounted directly to the intake.

*** If the supply hose carried has other than 2½ in. NH threads, adapters shall be carried to allow feeding the supply hose from a 2½ in. NH thread male discharge and to allow the hose to connect to a 2½ in. NH female intake, mounted in brackets fastened to the apparatus if not already mounted directly to the discharge or intake.

APPENDIX E - SPECIAL SERVICE FIRE APPARATUS

The following equipment shall be carried on the apparatus:

- (1) Two portable hand lights mounted in brackets fastened to the apparatus
- (2) One approved dry chemical portable fire extinguisher with a minimum 80-B:C rating mounted in a bracket fastened to the apparatus
- (3) One 2½ gal (9.5 L) or larger water extinguisher mounted in a bracket fastened to the apparatus
- (4) One SCBA complying with NFPA 1981, Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services, for each assigned seating position, but not fewer than two, mounted in brackets fastened to the apparatus or stored in containers supplied by the SCBA manufacturer
- (5) One spare SCBA cylinder for each SCBA carried, each mounted in a bracket fastened to the apparatus or stored in a specially designed storage space(s)
- (6) One first aid kit
- (7) Two or more wheel chocks, mounted in readily accessible locations, that together will hold the apparatus, when loaded to its GVWR or GCWR, on a hard surface with a 20 percent grade with the transmission in neutral and the parking brake released
- (8) One traffic vest for each seating position, each vest to comply with ANSI/ISEA 207, Standard for High-Visibility Public Safety Vests, and have a five-point breakaway feature that includes two at the shoulders, two at the sides, and one at the front
- (9) One automatic external defibrillator (AED)

It is recommended that the following be carried on the apparatus:

- Five fluorescent orange traffic cones not less than 28 in. (711 mm) in height, each equipped with a 6 in. (152 mm) retroreflective white band no more than 4 in. (102 mm) from the top of the cone, and an additional 4 in. (102 mm) retroreflective white band 2 in. (51 mm) below the 6 in. (152 mm) band
- Five illuminated warning devices such as highway flares, unless the five fluorescent orange traffic cones have illuminating capabilities

APPENDIX F – 87CSR6 - CERTIFICATION AND EVALUATION OF LOCAL FIRE DEPARTMENTS

TITLE 87 LEGISLATIVE RULES STATE FIRE COMMISSION

SERIES 6 CERTIFICATION AND EVALUATION OF LOCAL FIRE DEPARTMENTS

§87-6-1. General.

1.1. Scope. -- 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.

1.2. Authority. -- West Virginia Code §§29-3-9(e), 29-3-5, and 29A-3-1 et seq.

1.3. Filing Date. -- April 24, 2007.

1.4. Effective Date. -- May 1, 2007.

§87-6-2. Definitions.

As used in this Rule, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

2.1. "Certification" refers to the State Fire Commission's formal acceptance and approval of a new, local fire department to carry out firefighting, fire suppression and rescue operations in this State, pursuant to the procedures for application, review and approval that are set forth in this rule. Certification of new fire departments also constitutes the initial, formal recognition of that department.

2.2. "Commission" means the West Virginia State Fire Commission.

2.3 "Dual Response Area" refers to an area, defined by a mutual aid agreement or designated by the Commission, in which more than one local fire department may respond or may be called upon for initial response to a fire, threat of fire, or public emergency. The term "dual response area" is not mutually incompatible with the designation of a "first due area" and a dual response area may overlap, or comprise all or a portion of, a designated first due area.

2.4. "Fire Department" and "Local Fire Department" means an organization, constituted as either an administrative department of a local government authority or an independently chartered corporation, that is established for the principal purpose of fighting and preventing fires. For the purposes of this Rule, the term "fire department" shall also include those entities, so organized, using the name "fire company" or referred to as a fire company within the West Virginia Code.

2.5. "Fire Protection District" means a geographical area established by the Commission, within fire protection boundaries approved by the Commission, for the administration of fire protection and emergency response programs.

2.6. "First Due Area" means a fire protection district for which the Commission has assigned primary responsibility to a local fire department to provide fire protection and rescue services.

2.7. "ISO" refers to a national organization, ISO Properties, Inc., also known as the Insurance Services Office, that provides research, products, programs, and information on matters of insurance and risk management.

2.8. "Mutual Aid Agreement" is an agreement between a local fire department and another fire department, or governmental authority having jurisdiction over such other fire department, for the common protection of people and property from fire, for the reciprocal provision of emergency and rescue services and for the reciprocal use of equipment and personnel for these purposes.

2.9. "Recognition" refers to the State Fire Commission's formal acceptance and acknowledgment of the current qualifications of a local fire department to carry out firefighting, fire suppression and rescue operations in this State.

2.10. "State Fire Marshal" refers to the West Virginia State Fire Marshal and representatives duly authorized by the State Fire Marshal to act on his or her behalf.

§87-6-3. Requirement and Authority of Recognition.

3.1. General Requirement for Recognition: Every organization or corporation that is established for the principal purpose of fighting and preventing fires within local fire protection districts must be recognized as a local fire department by the West Virginia State Fire Commission. In the absence of official recognition by the Commission, no organization, corporation, or sub-division of a local government authority may claim or exercise the benefits, privileges and powers of a fire department provided under the West Virginia Code and this section. This requirement shall not apply to firefighting, fire protection and rescue entities organized and operated under the authority of a federal agency or a subdivision thereof and which do not receive distributions from state funds collected for fire-fighting organizations and their members.

3.2. In addition to the general authority and responsibility for firefighting and fire prevention within an approved fire protection district, recognition of a local fire department shall have the following effect:

a. The fire chief or line officer of a recognized fire department shall have the authority to exercise all powers and duties provided under the provisions of Article 3A, Chapter 29 of the W. Va. Code, §29-3A-1 et seq.

b. The recognized local fire department may enter into mutual aid agreements with other recognized fire departments or with other governmental agencies, of this state or any adjoining state, for reciprocal aid and assistance.

c. The recognized local fire department constitutes a "fire department or company" for purposes of the prosecution of offenses under W. Va. Code §29-3A-4.

d. The recognized local fire department may request aid and assistance from the State Fire Marshal under the provisions of W. Va. Code §29-3-12(b)

e. Members of a recognized local fire department may be deputized by the State Fire Marshal under the provisions of W. Va. Code §29-3-12(j), subject to the conditions and restrictions in subsection (n) of that Code section.

f. The State Fire Marshal may assign registration permits for emergency vehicles to recognized local fire departments and authorize members of a recognized local fire department to drive Class A vehicles equipped with emergency lights and warning devices, pursuant to the provisions of W. Va. §17C-15-26(d).

g. Recognized local fire departments shall be eligible to receive distributions from the Pensions and Protections Fund and from the Fire Protection Fund under the provisions of W. Va. Code §§8-15-8a, 8-15-9, 33-3-14d, and 33-3-33.

3.3. No entity may exercise, or claim benefit of, the powers, privileges and responsibilities listed in this section without recognition by the State Fire Commission pursuant to this rule.

3.4. In no event shall recognition of a local fire department be deemed to be a grant or delegation of any of the powers of the West Virginia State Fire Commission or the State Fire Marshal unless those powers are specifically imposed by state law or expressly delegated by the Commission or the State Fire Marshal.

§87-6-4. Duration of Recognition.

4.1. Except as established in the rotating schedule for implementation of the evaluation program provided in subsection 6.2 of this rule, recognition issued by the Commission shall, if not revoked, suspended, or restricted, be valid for a period of five years. In lieu of recognizing each department for exactly five years, the Commission may establish a fixed day of a year upon which recognitions will expire after the duration of approximately five years.

4.2. Recognition will not expire automatically following the date of expiration. In the event that a local fire department fails to submit a timely application for renewal of recognition or fails to submit a complete application for evaluation, the State Fire Commission may temporarily suspend its recognition of that department upon motion and vote in a public meeting of the Commission; Provided, that the State Fire Marshal must provide written notice to the department of the department's failure and the date, time, and location of the Commission's meeting, to be served by registered or certified mail or by package courier providing proof of delivery at least two weeks prior to the scheduled meeting

§87-6-5. Evaluation Criteria.

5.1. In conducting any review for certification or recognition of a local fire department, the State Fire Commission may consider all of the following factors:

a. The location, size and boundaries of the fire protection district, and the location of the fire station or substations within that fire protection district.

b. The number of active and available personnel to participate in firefighting and rescue services and the level and amount of training achieved by each active member;

c. The quantity, type, and condition of all equipment to be used by the local fire department;

d. Documentation of an administrative structure of the department including the designation of a chain of command and responsibilities of the respective office holders;

e. The existence and substance of "911" service agreements for the area served and of any mutual aid agreements affecting the local fire department;

f. The ISO Public Protection Classification for the local fire department's fire protection district;

g. The record, if any, of the department in responding to emergency calls and the responsibilities of local fire departments throughout the previous certification period;

h. The quality of record-keeping practices of the department, including regular and timely submission of fire loss data and reports as required by state law;

i. Any disciplinary action against the local fire department or any acts, failures to act or circumstances that would constitute grounds for disciplinary action against the local fire department under the provisions of §87-6-10 of this rule; and

j. Any other factor or circumstance directly bearing upon the ability of the fire department to serve the public adequately and provide for the safety of persons and property from fire and in other emergencies when the local fire department undertakes any other types of non-medical emergency services, which fall within the statutory jurisdiction of the State Fire Commission.

5.2. In any review of an existing local department or departments, or consideration of the establishment of a new department, under this rule, the fundamental issue for the State Fire Commission is the ability of the local fire department or departments to provide effective and responsible protection for persons and property from fire and other hazards. The State Fire Commission may not arbitrarily change a local fire department's fire protection district boundaries or other responsibilities.

§87-6-6. Review and evaluation of existing departments.

6.1. All local fire departments in operation and recognized by the State Fire Commission on the effective date of this rule are hereby deemed to be duly certified departments, Provided that these local fire departments must be regularly evaluated for renewal of recognition under the schedule established below for implementation of this rule.

6.2. Schedule for implementation - Within one hundred twenty (120) days of the effective date of this rule, the State Fire Marshal shall establish geographical divisions of the entire area of the state for a system of regular review and renewal of the recognition of local fire departments. The State Fire Marshal shall have the discretion to determine the number and the boundaries of the geographical regions based upon the manpower and resources available for the review and inspection responsibilities defined herein, provided that these geographical divisions shall contain approximately equal numbers of local fire departments. On or before the conclusion of this period, the State Fire Marshal shall assign all the departments within a given region, by random lot, to a rotating schedule for renewal of recognition in such fashion that, per year, twenty percent of the local departments within a region shall be required to apply for and obtain renewal of their recognition in each year following the adoption of this rule. The schedule for regular evaluation shall begin in the year 2008.

6.3. Six months prior to the expiration of recognition of a local fire department, the State Fire Marshal shall send forms for the renewal of recognition to the local fire department. Applications for renewal of recognition must be in writing, using the forms provided by the State Fire Marshal and must be submitted no later than three months prior to the date of expiration of the recognition period for the local fire department.

6.4. If the State Fire Marshal finds it necessary to visit a local fire department for purposes of completing an evaluation, the State Fire Marshal shall notify the local fire department in advance and arrange a mutually suitable time in which a responsible individual can meet the State Fire Marshal.

6.5. If, for any reason, the State Fire Marshal fails to provide the renewal application forms to a department in a timely manner or if the State Fire Marshal is unable to complete an evaluation of a local fire department prior to the date established for expiration of recognition, the local fire department's official recognition shall continue until such time as the State Fire Marshal is able to complete an evaluation of the department and the Commission is able to meet and consider the renewal application.

6.6. After review of the evaluation according to the criteria established or referenced herein, the State Fire Marshal shall submit the results of the evaluation to the State Fire Commission with a recommendation as to whether the local fire department should be approved and recognized. The Commission shall have the ultimate authority to rule upon the evaluation of each local fire department. The Commission is not bound by the recommendation of the State Fire Marshal and may independently review all materials submitted with the application.

§87-6-7. Certification of new departments.

7.1. No new local fire department or fire company will be authorized without prior approval of, and certification by, the Commission.

7.2. The State Fire Commission retains the ultimate authority to authorize the creation of, certify, and establish fire protection areas for a new local fire department when the Commission determines that the establishment of such new department will provide more comprehensive and necessary protection for the safety of people and property within such areas. In making these determinations, however, the State Fire Commission shall, as far as reasonably practical, attempt to do so with the consent and cooperation of all local government authorities in the areas to be served by the new department, with due consideration for the plenary authority of municipal governments to provide for fire protection for their constituents.

7.3. Application for Certification - Any organization seeking to be certified as a new local fire department shall make application to the State Fire Commission using forms provided by the State Fire Marshal. All applications shall be in writing and shall be considered public records, subject to inspection by the public.

7.4. Application Review - The Commission shall conduct a review of the application in a process of two phases.

a. Phase I - Initial documentation review. In this phase, the State Fire Marshal, together with additional Commission staff as may be reasonably required, will review documentation of the basic organizing materials for the creation of a new department, including a letter of intent from the organization or local governmental authority, copies of any pertinent local ordinances, sign-off by appropriate local officials and a map of the proposed service area. After review of these materials, the State Fire Marshal will make a recommendation to the Commission as to whether the Commission should grant Phase I approval and authorize the organization to proceed to Phase II.

b. Phase II - In Phase II, the applying organization shall obtain and present evidence of sufficient staffing, equipment, and resources to operate as a local fire department. Upon satisfactory demonstration of compliance with the requirements of the Commission, the Commission may grant approval and certification of the local fire department.

7.5. The Commission is not bound by the recommendation of the State Fire Marshal at any phase of the application process and the Commission may independently review all materials submitted with the application. The Commission may, in its discretion, make additional inquiry into the facts and circumstances of any proposal for a new department and may request that additional information be provided to the Commission in consideration of an application.

§87-6-8. Incidental review and guidance by the State Fire Marshal.

8.1. The State Fire Marshal may enter onto the premises of any local fire department to observe and ensure compliance with the responsibilities of the local fire department under state law and the rules and policies of this Commission. This provision shall not be construed to compel the officers or members of a local fire department to be always available to the State Fire Marshal or to be present for any unscheduled visit by the State Fire Marshal or authorized representative.

8.2. The Commission authorizes the State Fire Marshal to issue warning letters to a local fire department when, after incidental review or investigation, it appears that the local department has, by act or omission, violated the standards for recognition and safe operation as a fire department, but where those circumstances do not require review or disciplinary action by the Commission. In this circumstance, a letter of warning serves as advice and caution only; it shall not be considered a formal, disciplinary action under subsection 10.3 of this rule.

§87-6-9. Complaints and investigations

9.1. The procedures established in this rule for the investigation and disposition of complaints apply only to complaints falling within the State Fire Commission's authority and administrative function to certify and formally recognize local fire departments. These procedures do not apply to investigations by the State Fire Marshal of alleged crimes or suspected criminal activity, conducted under the authority of W. Va. Code §29-3-12.

9.2. In proceedings involving the investigation and review of complaints against a local fire department or its members, the Commission shall act as the adjudicatory body determining whether evidence supports the complaint. The State Fire Marshal shall act as the investigating officer and the party presenting the facts regarding the complaint before the Commission.

9.3. Any person may make a complaint regarding a local fire department, including the State Fire Marshal, or a member of the Commission or the Commission's staff. Complaints must be made in writing and the Commission may provide a form for the purpose of submitting a complaint, but a complaint may be filed in any form as long as it is made in writing, signed by the complainant, and submitted to the Commission at its business office.

9.4. Upon receipt of a written complaint, the Commission will log and assign a number to the complaint. The complaint will then be delivered to the State Fire Marshal for investigation. The Fire Marshal shall have seven (7) days to review the complaint to determine if it describes any violation of the requirements or responsibilities of a local fire department.

a. If the State Fire Marshal determines that there is no violation described, he or she shall notify the complainant of this determination and that he or she will recommend that the Commission dismiss the complaint at its next meeting. The State Fire Marshal will have no duty to investigate further unless the complainant amends or updates the allegations. In providing notice to the complainant pursuant to this subsection, the State Fire Marshal shall advise the complainant of the date and time of the next meeting of the State Fire Commission in which the Commission will take up the complaint.

b. If the State Fire Marshal determines that the complaint appears to describe conduct regulated by the standards for local fire departments or describes a violation of law for which the Commission has the authority to sanction a local fire department, then the Fire Marshal shall either begin an investigation of the allegations stated in the complaint or, when the complaint involves a fire department administered by a municipality as an administrative unit of the municipal corporation, refer the complaint to the governing body having supervisory or administrative authority over the fire department identified in the complaint.

9.5. No provision of this rule shall restrict the State Fire Marshal from investigating additional violations if, in the course of his investigation of the original complaint, the State Fire Marshal becomes aware of evidence that indicates that other violations of law may have occurred.

9.6. In addition to the foregoing provisions, the Commission may, upon its own motion, initiate a complaint and cause the State Fire Marshal to conduct an investigation of a local fire department.

9.7. If the State Fire Marshal determines, pursuant to subsection 9.4 of this rule, that an investigation is necessary, the State Fire Marshal shall forthwith send written notice to the local fire department identified in the complaint that an investigation will be initiated and shall include a statement of the substance of the allegations in the complaint. For purposes of this section, a notice to the local fire department shall be directed to the chief of the local department and to the secretary or other officer authorized to respond to official correspondence and it shall be served by any method of mail or package delivery that provides dated proof of delivery. The State Fire Marshal shall also inform the local governmental authority having jurisdiction over the fire department or its fire service district of the complaint and the nature of the violations alleged. The local fire department shall have thirty (30) days to prepare a response or answer to the complaint, but the State Fire Marshal may proceed with investigation of the complaint during such interval.

9.8. The State Fire Marshal shall make such investigation as is reasonably necessary to ascertain whether the local fire department has violated any of the requirements or responsibilities of a local fire department. At the conclusion of the investigation, the State Fire Marshal shall make a report to the Commission as to whether there is probable cause to believe that any violation has occurred and, in the event that any violation is believed to have occurred, the report shall briefly identify the nature of the violation or violations. The findings of the State Fire Marshal shall be logged with the original complaint and served upon the local fire department at least thirty (30) days in advance of any meeting of the Commission in which the report of the State Fire Marshal may be considered.

9.9. The local fire department may respond in writing to the report of the State Fire Marshal and this response, together with the department's original response to the complaint, shall be delivered to the Commission along with the report of the State Fire Marshal. When the report and responses are to be considered at a meeting of the Commission, the local fire department may appear and make an oral presentation to the Commission.

9.10. If the Commission finds that there is probable cause to believe that a violation has occurred, the Commission shall enter an order to that effect and serve a copy of the order upon the local fire department and the local government agency having jurisdiction over the fire department. A probable cause order serves only as a formal charge and, in the absence of any other order, it shall have no effect other than to trigger the local fire department's right to a hearing as provided in subsection 10.1 of this rule.

§87-6-10. Grounds for Denial, Restriction, Suspension or Revocation of Recognition or Certification.

10.1. Right to a Hearing

a. The State Fire Commission may not suspend, revoke, or place probationary restrictions upon, the recognition of an existing, recognized local fire department without a prior hearing, unless the local fire department explicitly and formally waives the right to a hearing.

b. The Commission may deny an application for certification or refuse to issue a certification without a prior hearing, upon entry of a written order stating the findings of the Commission and the reasons for the denial or refusal; Provided, that the local fire department or proposed new department may request a hearing upon the action of the Commission and shall be afforded a reasonably prompt hearing following such demand.

c. The State Fire Commission hereby grants authority to the State Fire Marshal to order a local fire department to suspend firefighting and rescue operations as a temporary, emergency measure when the continued operations of that department pose a substantial and imminent risk of harm to public safety, which may also include risk of harm to members of the local department. If the State Fire Marshal issues an order to suspend operations, the State Fire Marshal shall immediately make arrangements with the local 911 call center and surrounding fire departments to provide coverage for the affected fire protection district, and the State Fire Marshal shall, within forty-eight (48) hours, notify the Commission's Chair or Vice-Chair of the order and the specific grounds for the action taken. The Commission shall provide a hearing to the local fire department upon the grounds cited within thirty (30) days and, following the hearing, the Commission may approve, rescind, modify, or extend the order as an official order of the Commission. An order to suspend operations does not constitute a suspension of recognition of the local fire department.

10.2. The following acts, failures or circumstances are deemed to be performance failures of a local fire department that may warrant official action by the Commission:

a. Failure to maintain minimum levels of performance in training, equipment maintenance or fire protection procedures, as established by statute, by legislative rule, or by written policy promulgated pursuant to W. Va. Code §29-3-9(i);

b. A pattern of failure to provide fire protection service to the department's assigned fire protection district or to other areas served through mutual aid agreements;

c. A pattern of failure to respond to reasonable requests and lawful directives of the State Fire Marshal or State Fire Commission;

d. Any act of deceit, falsification or misrepresentation in the creation, maintenance or submission of records that the local fire department is required to prepare or file under any provision of state law;

e. Chronic or gross failure to adhere to the West Virginia State Fire Code;

f. Chronic or gross abuse of the powers and privileges provided under subsection 3.2 of this rule;

g. A practice or pattern of performance that demonstrates a substantial threat to the safety of people and property within the community served, which threat may also include a substantial risk of harm to the safety to the firefighting personnel themselves;

h. Lack of an ISO Public Protection Classification, failure to obtain such classification or, except in the case of an application for a new department, a Public Protection Classification indicating that there is no fire protection or that there is an unacceptable level of protection within the department's assigned fire protection district;

i. Any circumstance resulting in the absence, loss, removal, or substantial alteration of a first due area or other approved run area;

j. Any act of a local governmental authority with jurisdiction over the geographical area served by the local fire department, in lawful exercise of plenary powers assigned to that authority, that effectively removes or substantially diminishes department's power to serve within department's assigned fire protection district, or any such act that effectively removes or substantially diminishes the physical facilities available to the local fire department;

k. An adjudication that the local fire department is in default of payment of any fees, taxes, invoices or premiums due to the State of West Virginia, such as sales and use taxes, unemployment compensation or workers compensation payments, where the Commission is required by state or federal law to deny the local department's certification, recognition or legal authority to operate, and where the adjudication is rendered by a court of competent jurisdiction or by an administrative agency with specific statutory authority to determine such failure or default; and

l. Any violation of law that demonstrates a gross or flagrant disregard for the rule of law directly bearing on the safety of the community or communities to be served by the local fire department and that cannot be corrected by other authorities acting through other means such as removal of the responsible individuals or criminal prosecution of the offending individuals.

10.3. Disciplinary powers of the State Fire Commission

a. The Commission may deny certification or recognition and may restrict, suspend, or revoke the recognition of a local fire department upon a showing that the department or proposed department has violated the standards for recognition as set out in this rule. No restriction, suspension or revocation of recognition may occur without a prior hearing conducted by the Commission, except that the Commission may temporarily suspend recognition pending a subsequent hearing if the Commission determines that continued operation of a local fire department constitutes an immediate danger to the public.

b. Remedial alternatives - Upon notice to the Commission of violation of the standards for recognition and safe operation of a local fire department, the Commission may, at any point, in lieu of other disciplinary action, utilize any of the following methods to resolve or remedy the circumstances resulting in such violation:

1. The Commission may authorize the State Fire Marshal to issue a warning letter to the local fire department identifying the nature of the violation or violations and advising the local fire department that additional violations could result in the modification or loss of its recognition.

2. The Commission may establish a plan and period of improvement during which the local department may attempt to correct or alleviate the circumstances giving rise to a violation and the Commission may extend such period if additional time is required to address all circumstances. If at the conclusion of such period or extended period, the local fire department has reasonably satisfied the requirements or objectives of the improvement plan, the Commission shall dismiss the complaint. If, however, the local fire department has failed to satisfy the objectives, the matter shall be set down for hearing upon the violations alleged against the local fire department.

3. The Commission may enter into a stipulation, agreed settlement or consent order with the local fire department to resolve and conclude the disciplinary action under such terms as the Commission deems reasonable and just. The Commission may authorize the State Fire Marshal or other representative of the Commission to negotiate the terms of such agreement and present the resulting agreement to the Commission for its approval.

10.4. The use of any of these remedial alternatives rests in the sole discretion of the Commission. The Commission may elect to proceed directly to a disciplinary hearing if it appears unlikely or impossible to remedy the situation that has given rise to the violations or if it appears that there is an imminent risk of harm to the public by the continued operation of the local fire department.

10.5. No local fire department shall have a guaranteed or presumed right to certification or recognition, or to reissuance of a recognition, if that department's recognition was previously revoked or withdrawn by the Commission.

11.1. Any decision by the Commission approving, denying, restricting, suspending, or revoking the certification or recognition of a local fire department shall be made in open meeting upon a vote of the majority of those members present. When considering the regular evaluations of multiple fire departments, the Commission may grant the renewals in a consolidated motion before the Commission.

11.2. Pursuant to West Virginia Code §§6-9A-2(4)(A) and 6-9A-4(b)(4), the Commission may deliberate upon an issue in consideration of the granting, denial, withdrawal, modification, suspension or revocation of a department's certification or recognition in an executive session.

§87-6-12. Procedures for Withdrawal, Suspension or Revocation of Certification or Recognition.

12.1. Notice - If the Commission determines that there is probable cause to believe a violation of standards has occurred and that a hearing is necessary to resolve the issues alleged, the Chairman of the Commission shall schedule a hearing upon the matters alleged against the local fire department. The State Fire Marshal shall prepare a short, plain statement of the matters to be considered at the hearing and shall prepare a written notice advising the local fire department of the date, time, and location of the hearing. The notice and statement of the State Fire Marshal shall be served upon the local fire department by personal delivery upon an officer of the department or by registered or certified mail addressed to the mailing address of the department as shown on the department's application for certification. A copy of the statement of charges shall also be provided to the local government entity having jurisdiction over the area served by the local fire department.

12.2. Parties - The State Fire Marshal or his authorized representative shall have the responsibility of presenting the case in support of the complaint, or the case on behalf of the Commission if the Commission has initiated the investigation. The local fire department shall be named as the respondent in the proceedings and may appear by the authorized representative of the department, or by counsel, or both. These parties shall be the primary participants in the case, but the Commission may, at its discretion, allow the participation of any other party as an intervenor in the proceeding, upon written motion by such party and upon a showing that such party has a substantial interest in the proceeding that is not likely to be represented by the other parties in the case.

12.3. Hearing - The Commission has the discretion to determine the time, location and duration of any hearing brought pursuant to the provisions of this rule. Hearings shall be open to the public and may be conducted before the full Commission or the Chairman may, at his discretion, designate a member to serve as a hearing examiner to conduct a hearing on behalf of the Commission. Alternatively, the State Fire Commission may authorize and empower an impartial attorney to serve as a hearing examiner. When a hearing examiner is so designated or authorized, that person shall have full authority to conduct the proceedings and may exercise all powers listed in West Virginia Code §29A-5-1(d). At any point in the proceedings, the Commission may choose to invoke one of the remedial alternatives described in subsection 10.3.b of this Rule to resolve and dispose of the matter.

12.4. The State Fire Marshal shall have the burden of proving the matters alleged against the local fire department by a preponderance of evidence.

12.5. Decision and Order - The decision of the Commission shall be reduced to a written order and shall become final upon service of the order upon the local fire department by registered or certified mail. Any decision of the Commission, disposing of a complaint against a local fire department in any manner, shall also be served by certified mail upon the complainant and upon the local government entity having jurisdiction over that fire department.

§87-6-13. Appeals.

13.1. Any party who is adversely affected by a final order or decision of the Commission, rendered under the provisions of this rule, shall have the right to judicial review of that decision as established in West Virginia Code §§29A-5-4 and 29A-6-1.

APPENDIX G – 87CSR8 – VOLUNTEER FIREFIGHTERS’ TRAINING, EQUIPMENT AND OPERATING STANDARDS

TITLE 87 LEGISLATIVE RULE FIRE COMMISSION

SERIES 8 VOLUNTEER FIREFIGHTERS’ TRAINING, EQUIPMENT, AND OPERATING STANDARDS

§87-8-1. General.

1.1. Scope. -- 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 response 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.

1.2. Authority. -- This legislative rule is issued under authority of W. Va. Code §15A-11-9.

1.3. Filing Date. -- April 26, 2023.

1.4. Effective Date. -- May 1, 2023.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon August 1, 2028.

1.6. Incorporation of Other Documents. -- This rule does not include a reprinting of all the requirements imposed by statute or by the incorporation of various National Standards and Codes cited in this rule. For ascertaining these additional standards and requirements it is necessary to make reference to these other documents.

§87-8-2. Definitions.

2.1. “Active members” means an individual that performs the function of fire prevention and suppression, or vehicle and machinery extrications when responding to emergency situations. Depending on the level(s) of training the active member has completed, active members may also perform the tasks and duties of hazardous materials response and mitigation, technical rescue, emergency medical services and any other duties that a specialized support member may provide if so trained.

2.2. “Ancillary support member” means any person solely performing support, administrative, or day to day functions for the department. Under no circumstance shall an ancillary member perform any function which requires training for an active member or a specialized support member.

2.3. “Approved Curriculum” means curriculum for training approved by the West Virginia State Fire Commission.

2.4. “Assistant Fire Chief otherwise known as Deputy Chief or Battalion Chief” means the second highest fire line officer(s) in charge of the fire department. This person may take on the responsibilities of the chief in his or her absence. A department may have more than one person filling this position.

2.5. “Chief” means the highest-ranking fire line officer in charge of the fire department.

2.6. “Department” means any volunteer fire fighting response organization regulated by the West Virginia State Fire Commission. Department includes a volunteer fire company or volunteer fire brigade, Provided that: private or corporate fire brigades are exempt from this rule.

2.7. “Firefighter” means any active member of a fire department who is a certified firefighter.

2.8. “Fire Commission” means the West Virginia State Fire Commission.

2.9. “Fire Line Officer” means Chief, Assistant Chief, Deputy Chief, Battalion Chief or other officers of the fire department usually referred to as line officers (usually referred to as Lieutenant and Captain), the third and fourth highest tiers in ranking in charge of the fire department and may take on the responsibilities of the chief or assistants in those persons(s)’ absence.

2.10. “First Response Area or First Due Area” means the specified geographical area assigned to a fire department, which has been approved by the WV Fire Commission, to which the assigned fire Department is the primary department responsible for providing fire protection.

2.11. “NFPA” means the National Fire Protection Association Codes and Standards.

2.12. “NIMS” means the National Incident Management System.

2.13. “Person” means business, corporation, partnership, individual, or any other entity submitting a curriculum for approval.

2.14. “Probationary Firefighter” means an active member of a volunteer fire department who is at least 18 years old and not a certified firefighter.

2.15. “Specialized Support member” means any person responding solely for the purpose of performing emergency medical services, hazardous materials mitigation, or specialized rescue.

§87-8-3. Minimum Training Levels for Rescue and Fire Fighting.

3.1. All firefighters certified by the Fire Commission prior to the effective date of this rule shall remain certified to the level previously granted by the Fire Commission.

3.2. All active members and firefighters must always maintain current certification in first aid, CPR, and must have been trained in, at a minimum, Hazardous Materials Awareness. Additionally, all active members and firefighters shall have the training available to them to allow them to become compliant with the “NIMS Training Guidelines for West Virginia” as established by the West Virginia Division of Emergency Management.

3.3. All active firefighters who perform automobile extractions must have completed an approved Vehicle and Machinery Rescue Operations Level curriculum (NFPA 1006 or 1670) or equivalent, and pass any and all testing required for certification. Any active firefighter who has completed the certification for firefighter 2 is deemed to have met this requirement and does not have to receive a separate training in Vehicle and Machinery Rescue Operations Level.

3.4. All active firefighters must have completed an approved firefighter 1 curriculum, or equivalent, and pass any and all testing required for certification before responding to any fire, with the exception of responding to wildland fires over which the Department of Natural Resources or Division of Forestry has jurisdiction.

3.4.1. A person may serve as a probationary firefighter, at the discretion of the fire chief, for a period not to exceed five years.

3.4.1.a. A probationary firefighter is required to be trained to a minimum as required in the modular training policy of the State Fire Commission and can operate as defined within said policy.

3.5. At all times, all active fire line officers, excluding any training coordinator or safety coordinator, must have completed an approved Fire Officer 1 curriculum, or equivalent, and pass any and all testing required for certification as a Fire Officer 1. Additionally, all active members and firefighters shall have the training available to them to allow them

to become compliant with the “NIMS Training Guidelines for West Virginia” as established by the West Virginia Division of Emergency Management.

3.6. At all times, all active chief and assistant chief members must have completed an approved fire Officer 2 curriculum, or equivalent, and pass any and all testing required for certification as a Fire Officer 2. Additionally, all active members and firefighters shall have the training available to them to allow them to become compliant with the “NIMS Training Guidelines for West Virginia” as established by the West Virginia Division of Emergency Management.

3.7. The Fire Commission, at all times, shall have an equivalency program to allow certification of fire officers in Fire Officer 1 and Fire Officer 2. Any person may apply to this program for certification in either Fire Officer 1, Fire Officer 2, or both. This program shall evaluate a person’s practical knowledge and life experience within the fire service, and any previous training that person may have completed. If the person has demonstrated competency in the skills taught in these curricula, then the application shall be granted.

3.8. All operators of fire department engines, tankers, aerials, and rescue trucks must have a Firefighter I certification, have a valid driver's license, and must have completed an approved Emergency Vehicle Operations Course (EVOC), or equivalent, and pass any and all testing required for certification.

3.8.1. Provided that, during maintenance or service of the vehicle, any person operating a vehicle to perform his or her job may operate that vehicle as long as that person meets all other requirements to operate that vehicle as set forth by statute.

3.8.2. Provided that, nothing in this rule shall prohibit specialized support members or emergency medical response personnel from operating fire department squads, ambulances and/or emergency medical response vehicles, or prevent ancillary support members of fire departments from operating utility vehicles.

3.8.3. Provided that, nothing in this rule shall prohibit an active member from operating a fire department vehicle for the purpose of training so long as he or she are accompanied by a certified operator in a non-emergency capacity.

3.8.4. The Fire Commission may utilize the modular training program as an alternative to meet this requirement.

3.9. All individuals who wish to instruct or test others in any approved curriculum for purposes of certification by the State Fire Commission must obtain and maintain a valid adult part-time teaching permit issued by the West Virginia Department of Education, or be a certified Fire Instructor through the West Virginia University Fire Service Extension.

3.10. Departments may appoint at least one member of the department to serve as a training coordinator. It is the training coordinator’s duty to ensure that all members achieve the appropriate certifications, and to oversee training within the department.

3.11. Active and specialized support members that respond to hazardous materials incidents must have completed and achieved certification for training at or above the level of Hazardous Materials Awareness, and have passed any and all testing required for this certification. Active and specialized support members that operate at hazardous materials incidents must have completed and achieved, at the minimum, certification for training at the Hazardous Materials Operations level, as set forth by the U.S. Environmental Protection Agency and the U.S. Occupational Safety and Health Administration, or equivalent, and have passed any and all testing required for this certification.

3.12. This section establishes the minimum level of training necessary for certification. Training beyond minimum requirements is voluntary. All training curriculums must be approved by the Commission pursuant to section 4 of this rules series if the training is completed for the purposes of obtaining certification by the Fire Commission.

§87-8-4. Curriculum Approval.

4.1. In order for a curriculum to be approved by the Fire Commission, the following minimum levels of competency must be met:

4.1.1. Firefighter 1 - NFPA 1001, the requirement for a medical exam shall be excluded.

4.1.2. Vehicle and Machinery Rescue Level 1 - NFPA 1006.

4.1.3. Firefighter 2 - NFPA 1001.

4.1.4. Fire Officer 1 - NFPA 1021, the requirement for Instructor 1 shall be excluded.

4.1.5. Fire Officer 2 - NFPA 1021.

4.1.6. Driver/Operator - NFPA 1002.

4.1.7. Fire Instructor - NFPA 1041. Further, if not a fire instructor employed by the West Virginia University Fire Service Extension, a fire instructor shall obtain, and maintain, an adult part-time teaching permit.

4.1.8. All other training, if being presented to the Commission for approval for certification, must meet or exceed the National Standard for the corresponding training objective as set forth by NFPA.

4.2. Persons seeking approval for a curriculum must submit 1 copy of the text and teaching materials, and 15 copies of the proposed curriculum outline to the Fire Commission. All course curriculum must provide for the following:

4.2.1. Course content meeting or exceeding the current National Standard as set forth by NFPA or other accrediting entity, including Job Performance Requirements.

4.2.2. On-line training in the subject matter being taught, including a break down of the course content being offered on-line and an approximate timetable describing the amount of time needed for delivery of the content, or an explanation as to why this is not applicable.

4.2.3. On-line testing, in a controlled, proctored environment, or an explanation as to why this is not applicable.

4.2.4. In person training on the subject matter, including a break down of the course content being offered in person and an approximate timetable describing the amount of time needed for delivery of the content, or an explanation as to why this is not applicable.

4.2.5. In person testing in a controlled, proctored environment, or an explanation as to why this is not applicable.

4.2.6. A regional testing schedule for the course if in person testing is required, stating the general vicinity of the tests, and the minimum number of times the test shall be offered in each location.

4.2.7. The procedure for administering the on-line instruction or testing, if applicable, which shall include, at a minimum:

4.2.7.a. A controlled, proctored environment for testing;

4.2.7.b. The party responsible for providing the computer equipment and internet service;

and,

4.2.7.c. Minimum equipment and service levels for the instruction and/or testing environment.

4.2.8. The course content, broken down into segments, blocks or modules, and the method of testing for the course content, or an explanation as to why this is not applicable.

4.2.9. The anticipated fee to be charged per student for receiving the training and testing.

4.3. All materials submitted for the Courses for Certification in Firefighter 1, Firefighter 2, Fire Officer 1, Fire Officer 2, Vehicle and Machinery Rescue Level 1, and Hazardous Materials Awareness and/or Operations must include on-line

training, as either its entire course, or as a blended course of on-line and in person training, or an explanation as to why this is not applicable.

4.4. Upon receipt of the proposed curriculum, the Fire Commission Training Committee shall review the submitted materials to ensure that each curriculum complies with the minimum standards as set forth in sections 4.1 and 4.2 of this rule.

4.4.1. If, after review, the subcommittee finds that the materials do not comply with the standard set forth in subsections 4.1 and 4.1 of this rule, the textbook and teaching materials, and one copy of the curriculum outlines shall be returned to the person submitting the materials, with an explanation as to why the curriculum is being returned.

4.4.2. If after review, the subcommittee finds that the submitted materials comply with the standards set forth in subsections 4.1 and 4.2 of this rule, the submitted materials shall be made available to for review by the general public, upon request, and a 30 day written comment period shall be announced at the next meeting of the Fire Commission with all written comments being submitted to the State Fire Commission at 1207 Quarrier Street, Charleston, WV 25031.

4.4.3. Following the written comment period, but not prior to the next regular Fire Commission meeting, the Commission shall vote to accept or reject the proposed curriculum, and the person submitting the curriculum shall be notified of the results of the vote, and if approved the allow start date to provide the approved curriculum to the public for Certification.

4.5. All curricula must be approved by the commission a minimum of every 5 years to ensure that training is meeting or exceeding the standards set forth in the current edition of the NFPA or applicable standard.

4.5.1 If a curriculum is not submitted for re-approval after five years have passed, the approval for the curricula will automatically be suspended.

4.6. The current modular training policies, of the State Fire Commission, can be utilized as alternate methods to achieve certification as a firefighter or fire apparatus driver/operator as referenced in 3.8 of this rule.

4.7. The Commission, if it has received notice that the standard for a particular curriculum has changed, shall notify the party or parties affected, and any updated curricula shall be submitted, in accordance with the standards as stated in subsections 4.1 and 4.2 of this rule within a period of time not to exceed 12 months.

4.7.1. If an updated curricula is not submitted for approval after 12 months have passed, the approval for the curricula will automatically be suspended.

4.8. The questions on any written test for approved curriculum shall be confirmed to be found in the textbook used for the training and confirmed to associate with the Job Performance Requirement (JPR) for the specific training.

§87-8-5. Equivalency.

5.1. Individuals holding certification accredited by the International Fire Service Accreditation Congress (IFSAC) or the National Board on Fire Service Professional Qualifications (ProBoard) or certification from the Department of Labor Firefighter Apprenticeship program shall be considered as holding equivalency for the certification listed on the respective certificate.

5.2. Individuals not holding certification accredited by the international fire Service Accreditation Congress (IFSAC) or the National Board on fire Service Professional Qualifications (ProBoard) must comply with the following guidelines:

5.2.1. Applicant must complete the appropriate application and attach supporting documentation through the certification division of West Virginia University Fire Service Extension, or through the West Virginia Department of Education.

5.2.2. The applicant must be a member of a West Virginia State Fire Commission recognized fire department and must have the signature of the Fire Chief in order to request reciprocity.

5.2.3. Applicant must submit documentation of training and testing that complies with each component of the appropriate NFPA Standard for the desired level of certification. Documentation must be dated within the last 5 years.

5.2.4. If documentation is insufficient, applicant must successfully pass a certification written exam with a minimum score of 70% for the desired level of certification and practical skills exam, where applicable.

5.2.5. Applicant must meet the general requirements for certification as outlined by the West Virginia State Fire Commission.

5.3. The West Virginia University Fire Service Extension Certification Division or the West Virginia Department of Education will review and verify all documentation. Once documentation has been reviewed and verified to meet the certification criteria, the candidate will be issued reciprocity. If documentation does not meet the certification requirements, the candidate will be denied reciprocity. The candidate would then be required to complete an approved training program and meet all certification requirements including but not limited to, passing written and practical skills certification exams.

5.4. Applicants seeking Fire Officer I/Fire Officer II equivalency shall submit:

5.4.1. A portfolio outlining the certification being sought and associated files containing the Job Performance Requirements with meet the respective NFPA 1021 standard.

5.4.2. A list of all current training and certifications courses which were taken to achieve the equivalent certification.

5.5. If the equivalency application is refused or denied, the applicant may apply to the Commission, pursuant to W. Va. Code of State Rules §87-6-12, for a hearing on the merits of the application, and the Commission shall issue a final decision upon the application.

§87-8-6. Minimum Equipment and Performance Standards.

6.1. Departments shall operate in accordance with federal, state, and local laws, as well as their own constitution, bylaws, rules, and regulations.

6.2. Departments shall report fire losses to the State Fire Marshal's Office in accordance with West Virginia Code § 8-15-8a.

6.3. Department shall make provision for the receipt of alarms and the notification of members of all emergency calls received.

6.4. Department, or County Fire Association, as defined by West Virginia Code § 7-17-6, shall prepare and submit to the Fire Commission a map outlining the "first due" area of the Department. This agreement must be updated with the Fire Commission each time any agreement is modified or changed. Further, each department shall submit to the Fire Commission copies of any and all mutual aid agreements with other departments, and any subsequent changes to such agreements.

6.5. Members of the department shall respond to any emergency call in a manner consistent to preserve the life, safety and property of the public and members of the department.

6.6. Departments shall, within five minutes of arriving on the scene at a structure or vehicle fire, be capable of delivering a minimum water flow at the rate of one hundred (100) gallons per minute for a minimum of five (5) continuous minutes for a structure fire.

6.7. Departments shall, within its first due area, achieve the minimum classification for a municipality or rural fire protection district as determined by the Insurance Service Office (ISO).

6.8. Departments shall maintain records of routine inspections and maintenance for all in service apparatus and equipment, including emergency repairs, for a minimum of five (5) years and shall produce these documents upon request to the Fire Commission, Fire Marshal, or governmental entity overseeing the Department.

6.9. At least one member of the department shall be certified as a repairperson for SCBA (Self Contained Breathing Apparatus) or the department may show evidence of an agreement with, or documentation of yearly testing by a qualified repairman or firm/shop to provide such services.

6.9.1 For the purposes of this Rule, all SCBA equipment used by any department, or any member thereof, shall be positive pressure.

6.10. All fire pumps and hoses, and aerial apparatus shall be tested as at least annually for compliance with NFPA 1901, 1911, 1961 and 1962. Records of these tests shall be maintained by the department for a minimum of five (5) years and shall be produced by the department upon request of the Fire Commission, Fire Marshal, or governmental entity overseeing the Department.

6.11. All apparatus and associated equipment shall have met the standard for that particular apparatus or piece of equipment as set forth in NFPA 1901 in the year that the apparatus is and piece of associated equipment was manufactured, and shall be fully operable.

6.12. At all times, at a minimum, the following items shall be transported to the fire scene with the listed apparatus, provided that these items shall only be required if the apparatus is dispatched to an emergency scene:

6.12.1. Engine- as defined in NFPA 1901.

6.12.1.a. Current Motor Vehicle Inspection.

6.12.1.b. Current Emergency Vehicle Permit.

6.12.1.c. Fire Pump tested in accordance with subsection 6.10.

6.12.1.d. 24 foot extension ladder.

6.12.1.e. 14 foot straight ladder.

6.12.1.f. 800 feet minimum of 2 ½ inch or larger supply hose tested in accordance with subsection 6.10.

6.12.1.g. 400 feet minimum of 1 ½ to 2 inch attack hose tested in accordance with subsection 6.10.

6.12.1.h. sufficient number of nozzles.

6.12.1.i. two (2) pike poles or equivalent.

6.12.1.j. 1 pickhead axe.

6.12.1.k. 1 flathead axe.

6.12.1.l. 2 hand lights.

6.12.1.m. 1 dry chemical extinguisher.

6.12.1.n. 1 first aid kit.

6.12.1.o. 2 wheel chocks.

6.12.1.p. 1 SCBA pack (meeting NFPA 1981 standard) for each seat with one spare bottle for each pack.

6.12.1.q. 1 traffic vest for each seat.

6.12.2. Tanker- as defined in NFPA 1901.

6.12.2.a. Current Motor Vehicle Inspection.

6.12.2.b. Current Emergency Vehicle Permit.

6.12.2.c. If the unit contains a Fire Pump it shall be tested in accordance with subsection 6.10.

6.12.2.d. If the unit contains a Fire Pump 200 feet minimum of 2 ½ inch or larger supply hose tested in accordance with subsection 6.10.

6.12.2.e. If the unit contains a Fire Pump 400 feet minimum of 1 ½ to 2 inch attack hose tested in accordance with subsection 6.10.

6.12.2.f. If the unit contains a Fire Pump sufficient number of nozzles.

6.12.2.g. 2 hand lights.

6.12.2.h. 1 dry chemical extinguisher.

6.12.2.i. 1 first aid kit.

6.12.2.j. 2 wheel chocks.

6.12.2.k. 1 SCBA pack (meeting NFPA 1981 standard) for each seat with one spare bottle for each pack.

6.12.2.l. 1 traffic vest for each seat.

6.12.3. Aerial - as defined in NFPA 1901.

6.12.3.a. Current Motor Vehicle Inspection.

6.12.3.b. Current Emergency Vehicle Permit.

6.12.3.c. If the unit contains a Fire Pump it shall be Fire Pump tested in accordance with subsection 6.10.

6.12.3.d. Aerial unit tested in accordance with subsection 6.10.

6.12.3.e. If the unit contains a Fire Pump 800 feet minimum of 2 ½ inch or larger supply hose tested in accordance with subsection 6.10.

6.12.3.f. If the unit contains a Fire Pump 400 feet minimum of 1 ½ to 2 inch attack hose tested in accordance with subsection 6.10.

6.12.3.g. If the unit contains a Fire pump sufficient number of nozzles.

6.12.3.h. 4 Ladder Belts.

6.12.3.i. 2 hand lights.

6.12.3.j. 1 first aid kit.

6.12.3.k. 2 wheel chocks.

6.12.3.l. 1 SCBA pack (meeting NFPA 1981 standard) for each seat with one spare bottle for each pack.

6.12.3.m. 1 traffic vest for each seat.

6.12.4. Quint- as defined in NFPA 1901.

6.12.4.a. Current Motor Vehicle Inspection.

6.12.4.b. Current Emergency Vehicle Permit.

6.12.4.c. Fire Pump tested in accordance with subsection 6.10.

- 6.12.4.d. Aerial unit tested in accordance with subsection 6.10.
- 6.12.4.e. 300 feet minimum of 2 ½ inch or larger supply hose tested in accordance with subsection 6.10.
- 6.12.4.f. 400 feet minimum of 1 ½ to 2 inch attack hose tested in accordance with subsection 6.10.
- 6.12.4.g. sufficient number of nozzles.
- 6.12.4.h. 4 Ladder Belts.
- 6.12.4.i. 2 hand lights.
- 6.12.4.j. 1 dry chemical extinguisher.
- 6.12.4.k. 1 first aid kit.
- 6.12.4.l. 2 wheel chocks.
- 6.12.4.m. 1 SCBA pack (meeting NFPA 1981 standard) for each seat with one spare bottle for each pack.
- 6.12.4.n. 1 traffic vest for each seat.
- 6.12.5. Mini-Pumper - as defined in NFPA 1901.
 - 6.12.5.a. Current Motor Vehicle Inspection.
 - 6.12.5.b. Current Emergency Vehicle Permit.
 - 6.12.5.c. Fire Pump tested in accordance with subsection 6.10.
 - 6.12.5.d. 300 feet minimum of 2 ½ inch or larger supply hose tested in accordance with subsection 6.10.
 - 6.12.5.e. 400 feet minimum of 1 ½ to 2 inch attack hose tested in accordance with subsection 6.10.
 - 6.12.5.f. sufficient number of nozzles.
 - 6.12.5.g. 2 hand lights.
 - 6.12.5.h. 1 dry chemical extinguisher.
 - 6.12.5.i. 1 first aid kit.
 - 6.12.5.j. 2 wheel chocks.
 - 6.12.5.k. 1 SCBA pack (meeting NFPA 1981 standard) for each seat with one spare bottle for each pack.
- 6.12.6. Service Truck - as defined in NFPA 1901.
 - 6.12.6.a. Current Motor Vehicle Inspection.
 - 6.12.6.b. Current Emergency Vehicle Permit.
 - 6.12.6.c. 2 hand lights.
 - 6.12.6.d. 1 dry chemical extinguisher.
 - 6.12.6.e. 1 first aid kit.
 - 6.12.6.f. 2 wheel chocks.
 - 6.12.6.g. 1 SCBA pack (meeting NFPA 1981 standard) for each seat with one spare bottle for each pack.
 - 6.12.6.h. 1 traffic vest for each seat.

6.13. If an apparatus is not capable of transporting the required equipment, as set forth in subsection 6.12, to an emergency scene, a written plan must be kept on file, and be capable of being produced upon demand to the Fire Commission, Fire Marshal, or overseeing governmental agency, setting forth a detailed procedure for transporting all necessary equipment as detailed in subsection 6.12 to the emergency scene, which shall be strictly adhered to. The plan not being able to be produced, or the plan not being adhered to is a violation of this standard and may result in revocation of the department's certification.

6.14. At all times, departments shall maintain workers compensation coverage for all personnel.

§87-8-7. Personal Protective Equipment.

7.1. All personal protective equipment must have met NFPA standards for structural firefighting at the time of purchase by the current owner.

7.2. For structural firefighters, all personal protective equipment shall include the following:

- 7.2.1. Helmet;
- 7.2.2. Coat;
- 7.2.3. Pants;
- 7.2.4. Gloves;
- 7.2.5. Nomex Hood, or equivalent; and
- 7.2.6. Boots.

§87-8-8. Penalty.

Failure to maintain minimum levels of performance in training, equipment maintenance and performance standards in this rule shall make the department subject to removal of its certification, as set forth in West Virginia Code Rules § 87-6-1 et seq.; *Provided* That, except in situation of imminent danger to life or property, upon application, the Commission shall grant a department a 180 day period of correction, which may be extended upon good cause shown, during with the Commission shall assist a fire department in correcting deficiencies noted, facilitating training through West Virginia University or the West Virginia Department of Education, and in working with the with other involved parties, e.g. county commissions, municipal governments or county fire boards.

APPENDIX H – 87CSR10 -VOLUNTEER FIRE DEPARTMENT EQUIPMENT AND TRAINING GRANT FUNDING DISBURSEMENT

TITLE 87 LEGISLATIVE RULE STATE FIRE COMMISSION

SERIES 10 VOLUNTEER FIRE DEPARTMENT EQUIPMENT AND TRAINING GRANT FUNDING DISBURSEMENT

§87-10-1. General.

1.1. Scope. -- This rule establishes the Fire Service Equipment and Training Grant Funding program for WV Volunteer Fire Departments relating to authorizing the State Fire Commission to establish and administer a grant funding program which implements opportunities and standards to impose a grant funding program for volunteer firefighting that address problems facing volunteer fire departments in the state, including issues related to equipment needs, maintenance, and training.

1.2. Authority. -- This legislative rule is issued under authority of W. Va. Code §15A-11-11.

1.3. Filing Date. -- May 5, 2022.

1.4. Effective Date. -- August 1, 2022.

1.5 Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2027.

§87-10-2. Definitions.

2.1. “Active Members” means an individual who performs the function of fire prevention and suppression, or vehicle and machinery extrications when responding to emergency situations. Depending on the level(s) of training the active member has completed, active members may also perform the tasks and duties of hazardous materials response and mitigation, technical rescue, emergency medical services, and any other duties that a specialized support member may provide if so trained.

2.2. “Approved Curriculum” means a curriculum for training approved by the West Virginia State Fire Commission.

2.3. “Chief” means the highest-ranking fire line officer in charge of a fire department.

2.4. “Department” means any volunteer fire fighting response organization regulated by the West Virginia State Fire Commission. Department includes a volunteer fire company or volunteer fire brigade, provided that: private or corporate fire brigades are exempt from this rule.

2.5. “Firefighter” means any active member of a fire department.

2.6. “Fire Commission” means the West Virginia State Fire Commission.

2.7. “Grantor” means a state spending unit awarding a state grant.

2.8. “Grantee” means any entity, to exclude individuals, receiving a state grant, including a state spending unit, local government, corporation, partnership, association, or other legal entity.

2.9. "NIMS" means the National Incident Management System.

2.10. "Person" means business, corporation, partnership, individual, or any other entity submitting a curriculum for approval.

2.11. "Report" means an engagement, such as an agreed upon procedures engagement or other attestation engagement, performed and prepared by a certified public accountant to test whether state grants were spent as intended. The term "report" does not mean a full scope audit or review of the person receiving state funds.

2.12. "State grant" means funding provided by a state spending unit, regardless of the original source of the funds, to a grantee upon application for a specific purpose. The term "state grant" does not include: (A) Payments for goods and services purchased by a state spending unit; (B) compensation to state employees and public officials; (C) reimbursements to state employees and public officials for travel or incidental expenses; (D) grants of student aid; (E) government transfer payments; (F) direct benefits provided under state insurance and welfare programs; (G) funds reimbursed to a person for expenditures made for qualified purposes when receipts for the expenditures are required prior to receiving the funds; (H) retirement benefits; and (I) federal pass-through funds that are subject to the federal Single Audit Act Amendments of 1996, 31 U.S.C. § 7501, et seq. The term "state grant" does not include formula distributions to volunteer and part-volunteer fire departments and fire companies made pursuant to §33-3-14d, §33-3-33, or §33-12C-7 of this code and does not include money received from the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code.

§87-10-3. Procedures.

3.1. All applications pertaining to fire service equipment and training shall be based upon professional standards adopted by the State of West Virginia and the West Virginia State Fire Commission to include W. Va. Code §8-15-8a and §8-15-8b.

3.2. The State Fire Commission may limit the number of participating volunteer fire departments in the program due to available funding.

3.3. In order for a volunteer fire department to be eligible for participation in the Program, they must meet and maintain requirements to be a recognized volunteer fire department and they must obtain the required application, complete the form, and apply to the WV State Fire Commission for approval consideration. This application includes the completion of a Letter of Inquiry, and, based on receipt and acceptance of the Letter of Inquiry by the SFMO, an invitation to complete the Volunteer Fire Service Grant Funding Application.

3.4. Grant funds may only be awarded for training and equipment issues and may only be used to pay for what has been approved by the Fire Commission. Any other use is unauthorized.

3.5. Any department applying for grant funds through this program must:

3.5.1. Provide an Outline, including a listing of how the department has already attempted to fix the solution without the grant funds. related to the areas of training and fire service equipment efforts, and how this specific grant funding can be a help in ultimately achieving the department's overall goals.

§87-10-4. Grant Considerations.

4.1. Grant awards and disbursements will vary but typically, will not exceed \$10,000. The Commission reserves the right to award a grant more than this amount depending on public safety, and funds availability. Grant requests may be granted in part, in full, or denied, depending on circumstance, public safety needs, and funds availability. The submission of an application in no way guarantees that funds will be awarded to the requesting entity.

4.1.1. Grant requests should specifically ask for a specific dollar amount, along with any documentation, and a detailed description as to how the award of the grant will benefit the department and the community it serves.

4.2. To be considered for funding, a department must complete and provide a grant application. The grant application request must be submitted by the Fire Chief of the department and include the following information:

4.2.1. Name of department, street address, town/city, state, and zip code.

4.2.2. Department size (Number of Members).

4.2.3. The population of the departments primary and secondary response areas.

4.2.4. The annual number of emergency and nonemergency calls the department responds too.

4.2.5. An accounting of the revenues received by the department from federal, state, county, municipal, local, and other sources.

4.2.6. The department's assets, expenditures, and other liabilities, including whether the fire company or department has availed itself of available statewide contracts.

4.2.7. Type of grant -- training and/or equipment.

4.2.8. Estimated grant funding the department is requesting.

4.2.9. Description of how the grant will be utilized and timeline for implementation.

4.2.10. Why the department is requesting this grant, including challenges the department faces.

4.2.11. What steps have been taken and/or commitments made by the department/jurisdiction to try to meet this need of the department.

4.2.12. Indicate if the department has applied for similar funding from other sources- private, public, federal, state, county, etc. These must be listed on the application. Also, a reference must be made on the application for any other sources being approached for financial support of this project.

4.2.13. Contact information (Name, phone number, email, and rank of the head of the department).

4.3. The Commission will establish a committee of its members to review will review the grant application, and to make a recommendation to the full Commission. If the application meets the criteria described, and the Commission is considering the award of funds, the Department will be contacted with further instructions on how to complete the remaining grant requirements. As a part of the grant process, a phone interview may be required with the department's leadership a part of the application process. No department shall be eligible for a grant if that said department is found to be ineligible by the Legislative Auditor.

4.4. The State Fire Commission will make grants based on any submittals received for Fiscal Year 2021, based on the amount of money in the established fund pursuant to the below deadlines:

4.4.1. April 10, 2021 -- deadline to receive pending completed applications (for reviewed and vetted applications only).

4.4.2. May 31, 2021 -- deadline delivery of notification of Fire Departments who will be awarded grants for FY 2021.

4.5. Beginning in Fiscal Year 2022 and thereafter; the State Fire Commission will make grants based on a fiscal year (July 1 to June 30) based on the amount of money in the established fund pursuant to the below deadlines:

4.5.1. September 15 of every year -- deadline to submit a completed application (for reviewed and vetted applicants only).

4.5.2. By October 15 of every year -- final decisions made; all applicants contacted.

4.5.3. By November 15 of every year -- grants awarded.

4.6. In the case of emergency grant requests as the result of natural or manmade disasters, decisions will be made on a rolling basis.

4.7. If the Commission, once the entire application process is complete, votes to award grant funds to a department, a disbursement will be made from the grant funding account. The disbursement will be sent by certified mail to the fire department based on a fire equipment request; or directly to the fire service training provider, for any grant request pertaining to training.

4.8. All grant disbursements that are considered will be based on recently paid purchases of fire service equipment and/or maintenance of existing fire service equipment; or fire service training that has been either paid or training completed by the fire department with a pending invoice. Either shall be required and provided as proof of pending payment from the volunteer fire department.

4.9. All grant disbursements shall be made by the State Treasurer from the Fire Equipment and Training Fund. Disbursements shall be made by the State Treasurer based on notification from the State Fire Commission of grant awardees selection and approval of their grant application.

4.10. The fire commission shall, in the manner designated by the Legislative Auditor, notify the Legislative Auditor of the maximum amount of funds to be disbursed, the identity of the grantee authorized to receive the funds, the grantee's fiscal year and federal employer identification number, and the purpose and nature of the state grant, within 30 days of making the state grant, or authorizing the disbursement of the funds, whichever is later.

§87-10-5. Grant Expenditure Reporting.

5.1. The State Fire Commission, or the State Fire Marshal, whichever is administering the state grant, shall notify the grantee of the reporting requirements set forth in this section.

5.2. All grantors awarding state grants shall, prior to awarding a state grant, take reasonable actions to verify that the grantee is not barred from receiving state grants pursuant to this section. The verification process shall, at a minimum, include:

5.3. A requirement that the grantee seeking the state grant provide a sworn statement from an authorized representative that the grantee has filed all reports and sworn statements of expenditures for state grants received as required under this section; and

5.4. Confirmation from the Legislative Auditor by the grantor that the grantee has not been identified as one who has failed to file a report or sworn statement of expenditures under this section. Confirmation may be accomplished by accessing the computerized database provided in subsection (e) of this section.

5.5. If any report or sworn statement of expenditures submitted pursuant to the requirements of this section provides evidence of a reportable condition or violation, the grantor shall provide a copy of the report or sworn statement of expenditures to the Legislative Auditor within 30 days of receipt by the grantor.

5.6. The grantor shall maintain copies of reports and sworn statements of expenditures required by this section and make the reports or sworn statements of expenditures available for public inspection, as well as for use in audits and performance reviews of the grantor.

5.7. An audit of state grant funds may be authorized at any time by the Joint Committee on Government and Finance to be conducted by the Legislative Auditor at no cost to the grantee.

5.8. Grantees are reminded that any grantee who files a fraudulent sworn statement of expenditures under subsection (b) of the §12-14-4b, a fraudulent sworn statement under subsection of this §12-14-4b, section, or a fraudulent report under this §12-14-4b, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

APPENDIX I – SPECIALIZED MEMBERSHIP

TITLE 87 LEGISLATIVE RULE STATE FIRE COMMISSION

SERIES 11 SPECIALIZED MEMBERSHIP

§87-11-1. General.

1.1. Scope. -- This rule establishes the parameters for specialized, non-fire fighter, membership of a fire department.

1.2. Authority. -- W. Va. Code §15A-11-8.

1.3. Filing Date. -- May 5, 2022.

1.4. Effective Date. -- August 1, 2022.

1.5 Sunset Provision. – This rule shall terminate and have no further force or effect on August 1, 2027.

§87-11-2. Specialized Membership.

2.1. Any Volunteer Fire Department wishing to allow a person to join its department, in any specialized role, and not as a fire fighter, must inform the Commission of:

2.1.a. The person's full name;

2.1.b. The person's specialized skill;

2.1.c. The person's training obtained to be able to perform the specialized skill, including:

2.1.c.1. What training was completed;

2.1.c.2. Where the training was received;

2.1.c.3. The name of the provider;

2.1.c.4. The dates of the training; and,

2.1.c.5. a statement as to how the training is sufficient to perform the specialized function

2.2. The Department shall include with the information listed in subdivision 2.1. a notarized affirmation by the Chief of the Department that the Specialized member will not be permitted to participate in firefighting, or other activity in which that person is not trained appropriately.

2.3. All Departments must maintain a listing of specialized membership, and what each person's specialization is at all times, and have it available for review at any inspection or evaluation that is conducted.

2.4. If a person is already a specialized member, and that person wishes to have more than one specialization for the Department, the Department must complete the steps listed in this section for each specialization for each non-fire fighter member.

§87-11-3. Review and Approval or Denial of Specialized Members.

3.1. The Commission, when it receives notice from a fire department as described in section 2 of this rule, shall review the materials presented for completeness. Following this review, the Commission shall determine the following:

3.1.a. If there is an applicable NFPA standard for the specialized training, the Commission shall review the training to ensure that the training met the applicable standard. The Commission may contact the training entity for any information it deems necessary to make this determination.

3.1.b. If there is not an applicable NFPA standard for the specialized training, the Commission shall make any inquiries it deems necessary to determine if the training satisfies the minimum standard for that specialization.

3.2. If the Commission believes that the information submitted is sufficient, and that the training completed reaches the acceptable recognized standard, the Department will be notified that membership for that person is allowed to join the department as a specialized member with that specialty.

3.3. If the Commission believes that the information submitted is not sufficient to cause the commission to believe that the training received reaches the acceptable recognized standard, the Department will be notified that the membership for that person is not allowed as a specialized member with that specialty.

3.4. Any Decision made pursuant to subdivision 3.2. or 3.3. of this section is the sole discretion of the Commission and is not subject to review by any other means, and no appeal is available.

APPENDIX J – JUNIOR FIREFIGHTERS

TITLE 87 LEGISLATIVE RULE STATE FIRE COMMISSION

SERIES 12 JUNIOR FIREFIGHTERS

§87-12-1. General.

1.1. Scope. -- This rule establishes the parameters for Junior Firefighters responding to and operating on a fire scene.

1.2. Authority. -- W. Va. Code §15A-11-8.

1.3. Filing Date. -- May 5, 2022.

1.4. Effective Date. -- August 1, 2022.

1.5 Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2027.

§87-12-2. Child Labor Regulations.

2.1. The Commission intends for the provisions of this rule to supplement, and not supersede, the regulations set forth in the Child Labor Rule, W. Va. Code R. §42-9-1.

§87-12-3. Definitions.

3.1. As used in this rule, the following terms shall mean:

3.1.a. Junior Firefighter - a person who is the age of 16 or 17 who is a member of a Fire Department.

3.1.b. Emergency Apparatus - Firefighting and response vehicles used by a Fire Department or by Fire Department Personnel, to respond to an emergency scene: Provided, That, a personal vehicle which has been issued an Emergency Vehicle Permit is only included in this definition if the lights and sirens are engaged, and the vehicle is responding to an emergency scene.

3.1.c. Non-member minor - Any Minor child under the age of 18 who is not a member of a Fire Department.

3.1.d. Firefighter One modules -- the activities trained during the modules of this class are attached as Appendix A and are incorporated into this rule.

§87-12-4. Emergency Apparatus Responding to a Fire or Emergency Scene.

4.1. Junior Firefighters who have not completed at a minimum Modules 1 and 2 of Fire Fighter 1, shall not travel on an emergency apparatus while the apparatus is traveling to or from a fire or an emergency scene.

4.2. Junior Firefighters who have completed at a minimum Modules 1 and 2 of Fire Fighter 1, may travel on an emergency apparatus either while the apparatus is traveling to or from a fire or an emergency scene, or not traveling to a fire or emergency scene: *Provided*, That the Junior Firefighter is properly belted in and follows all safety procedures while traveling on the emergency apparatus.

§ 87-12-5. First Aid at a fire or emergency scene.

5.1. Junior Firefighters who have not completed Basic First Aid and CPR training, shall not be permitted to administer first aid at any time on an emergency or fire scene.

5.2. Junior Firefighters who have completed Basic First Aid and CPR training, may administer first aid at a fire or emergency scene: *Provided*, That the Junior Firefighter shall not do so inside the fire scene area, or in a building or structure until the emergency or fire has been declared under control by the official in charge. *Provided further*, that any Junior Firefighter administering first aid but be under the direct supervision of a certified fire fighter over the age of 18.

§87-12-6. Other functions which may be performed by Junior Firefighters.

6.1 Once a Junior Fire Fighter completes at a minimum any module of Firefighter One, or who has completed the Firefighter One training in full, the Junior Fire Fighter may perform any activities at a fire or emergency scene which they have completed training within modules one or two of Firefighter one, while under direct supervision of a certified firefighter over the age of 18. Under no circumstances may a Junior Firefighter perform any activities trained in modules three or four of Firefighter One at a fire or emergency scene.

§ 87-12-7. Non-member minors; Minors under the age of 16.

7.1. Non-member minor children, or any minor under the age of 16 may not participate in any activity provided for in this rule but may ride on an emergency apparatus while it is not in service: *Provided*, That the minor child is properly belted in and follows all safety procedures while traveling on the emergency apparatus.

Appendix A

WV Fire Commission Modular Firefighting Training Pilot Program

Tasks that can be performed at the end of each module:

Module 1

Wear structural firefighting gear Ride on a fire apparatus Answer station phone
Talk on a two-way radio
Deploy traffic and scene control devices Make hydrant and FDC connections
Stretch hose lines (Exterior fire ground) Deploy Master streams
Assist set up for drafting operations Clean and inspect hose Perform first aid and CPR
Operate within the parameters of an Incident Command System
Operate at the Awareness level at a Haz Mat incident -- Identify, Isolate and Notify.

Module 2

Use, inspect and clean SCBA Use Fire Extinguishers
Hoist equipment and hose with rope Use hand tools
Inspect, maintain, clean, and deploy ladders Set up exterior illumination
Operate exterior fire attack lines Operate at Wildland Fire Incidents Operate Master Streams

Module 3

Operate at the Haz Mat Operations level of a Haz Mat Incident

WV Fire Commission Modular Firefighting Training Pilot Program

Module 4

Interior fire attack Forcible Entry Search and Rescue
Salvage and Overhaul Ventilation
Operate as a member of RIT
Climb and work from ladders
Secure building utilities

APPENDIX K – CERTIFICATION OF FIRE CHIEFS

TITLE 87 LEGISLATIVE RULE STATE FIRE COMMISSION

SERIES 13 CERTIFICATION OF FIRE CHIEFS

§87-13-1. General.

1.1. Scope. -- This rule establishes the procedures certifying Fire Chiefs and acting Fire Chiefs of all fire departments operating in the State of West Virginia which are subject to the jurisdiction and certification of the Fire Commission.

1.2. Authority. -- W. Va. Code §15A-11-8.

1.3. Filing Date. -- May 5, 2022.

1.4. Effective Date. -- August 1, 2022.

1.5 Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2027.

§87-13-2. Certification Process.

2.1. Any member of any fire department who has been elected or appointed as Chief, or who is serving Acting Chief, must apply for Certification from the Fire Commission within 14 calendar days of assuming the position. No person may perform duties as a Chief until certified by the Commission in compliance with this rule.

2.2. The Chief or Acting Chief must send to the Fire Commission:

2.2.a. proof of election or appointment, by letter or document signed by an appropriate person who oversees the department;

2.2.b. all appropriate documentation, issued by The West Virginia Department of Education, West Virginia Public Service Training or the WVU Fire Service Extension Office, to show proof that the Chief or Acting Chief has completed all necessary training to hold the position.

2.2.b.1. The training must include 1021; or,

2.2.b.2. Fire Commission approved Fire Officer Level I and Fire Officer Level II

2.2.b.3. All previous firefighter and fire officer training will be recognized by the State Fire Commission to the level for which it is equivalent; and,

2.2.c. an executed and notarized Chief's Verification Statement, affirming that the chief will operate the department in compliance with all applicable laws, rules, and regulations, and will not allow the department, or members of the department to act or operate in a manner while engaging in fire department related activities, that is not in compliance with all applicable laws, rules, and regulations.

2.3. Once received by the Commission, the application for certification shall be reviewed by the Commission:

2.3.a. If information is missing from the application, or the required documentation is not submitted, the Commission will contact the Chief, and inform him or her, of the deficiencies in the application. If the Chief fails to correct the deficiencies in the application within 14 calendar days, the application will be rejected and the department shall choose a new Chief: *Provided*, that for good cause shown, this deadline may be extended in the sole discretion of the Commission. Any person who fails to timely submit the required information for certification, including any extensions which may be granted by the Commission, shall thereafter be ineligible for certification unless the person submits a written request to the Commission for reapplication along with sufficient proof that such person meets the minimum standards for certification, which request may be granted or denied in the sole discretion of the Commission. Any person aggrieved by the provisions of this subdivision may appeal the decision of the Commission in accordance with the provisions of subsection 12 of this Rule.

2.3.b. The complete application shall be reviewed by the Commission. The Commission shall review its files and past complaints received to determine if the applicant has operated a department not in compliance with applicable laws, rules, or regulations, or has him or herself acted in a manner not in compliance with applicable laws rules or regulations.

2.3.b.1. If there are no past Complaints, and the application meets the criteria as to proof of position, training, and the verification statement, the Commission shall approve the application and issue the Certification to the applicant.

2.3.b.2. If there are past complaints to this effect, the Commission shall schedule an interview with the applicant, to discuss the complaint(s) and then determine if the applicant understands the laws, rules, and regulations applicable to fire departments, and then further determine that applicant will abide by these in the future.

2.3.b.2.A. If the Commission is satisfied that the applicant understands the laws, rules, and regulations applicable to fire departments, and will abide by the applicable laws, rules, and regulations, the Commission will issue the Certification to the applicant.

2.3.b.2.B. If the Commission is not satisfied that the applicant will abide by the applicable laws, rules and regulations, the Commission will deny the application for certification.

2.3.c. Notwithstanding the provisions of this rule, upon receipt of an application for certification, until a final determination is made pursuant to this Rule, the Chair of the Commission may grant the applicant a temporary certification, for good cause shown and if the temporary certification is in the best interests of public safety.

§87-13-3. Denial, Suspension, or Revocation of Certification.

3.1. Any person, firm, corporation, member of the Fire Commission, State Fire Marshal, or public officer may make a complaint to the State Fire Commission making an accusation that a Fire Chief is in violation of State laws, rules, or regulations applicable to fire departments. The Fire Commission may provide a form for that purpose, but a complaint may be filed in any written form. In addition to describing the alleged violation which prompted the complaint, the complaint should contain the following:

3.1.a. The name of the fire department and the fire chief or acting chief against whom the complaint is lodged;

3.1.b. The date of the alleged incident;

3.1.c. The nature of the alleged violation; and,

3.1.d. The location of the alleged violation.

3.2. Complainants are immune from liability for the allegations contained in their complaints filed with the Fire Commission unless the complaint is filed in bad faith or for a malicious purpose.

3.3. The Fire Commission shall maintain a complaint log which records the receipt of each complaint, its nature, and its disposition.

3.4. The Fire Commission shall maintain a separate file on each complaint received, and each file shall have a number assigned to it.

3.5. Upon receipt of a complaint, the Fire Marshal and the Chair of the Fire Commission shall review the complaint and one of the following acknowledgments to the complainant shall be issued:

3.5.a. That the matter will be reviewed by the Fire Commission;

3.5.b. That the complaint is outside the jurisdiction of the Fire Commission, with suggestions as to how the complainant might best obtain a resolution of his or her problem; or,

3.5.c. That more information will be required in order to adequately review the individual complaint.

3.6. If the complaint is acknowledged under subsection 3.5.a, or 3.5.b, the State Fire Marshal shall send a copy of the complaint, including any supporting documentation, by certified mail to the chief or acting chief in question for his or her written comment, and he or she shall submit a written response to the Fire Commission within thirty (30) calendar days of the date of such correspondence, or waive the right to do so.

3.7. Requests for comment on complaints sent to chiefs or acting chiefs, shall be considered properly served when sent to the last address on file with the Fire Commission. It is the responsibility of the chief or acting chief to keep the Fire Commission informed of his or her current address.

3.8. After receipt and review of a complaint, unless the complaint is determined to fall within the provisions of subdivision 3.5.b of this rule, the Fire Marshal and Chair of the Fire Commission shall cause to be conducted any reasonable inquiry or investigation necessary to determine the truth and the validity of the allegations set forth in the complaint. The review of complaints and any view or investigation thereof may, at the discretion of the Fire Marshal, be assigned to a designee, who shall be a full time employee of the State Fire Marshal, or, alternatively, to an ethics investigator, for review and investigation.

3.9. Upon receipt of a complaint the designee, or ethics investigator, shall, within sixty (60) days, review and investigate the same and provide the Fire Commission with a report. The report shall contain a statement of the allegations, a statement of facts, and an analysis of the complaint including a description of the investigation, the records reviewed, and interviews conducted, and a statement of the designees, or ethics investigator's, findings and recommendations. The Fire Commission, the designee, or ethics investigator shall, upon request, be afforded an opportunity to have an investigation interview with the chief or acting chief in question, or any other involved parties, a report of which shall be placed in the investigation file.

3.10. To facilitate the disposition of a complaint, the Chair of the Fire Commission, a designee, or ethics investigator, may request any person to attend an informal conference at any time prior to the Fire Commission entering any order with respect to the complaint. The Chair of the Fire Commission, designee, or ethics investigator shall give notice of the conference, which notice shall include a statement of issues to be informally discussed. Statements made at a conference may not be introduced at any subsequent hearing on the merits without the consent of all parties to the hearing. No prejudice shall attach for failure to attend a conference pursuant to a request.

3.11. The Fire Commission may issue subpoenas and subpoenas duces tecum to complete the investigation and to determine the truth or validity of complaints. A designee, or ethics investigator, may

request that the Fire Commission issue subpoenas or subpoenas duces tecum. Any such request shall be accompanied by a brief statement specifying the necessity for the same.

3.12. At any point in the course of an investigation or inquiry into a complaint, the designee, or ethics investigator, may decide to recommend to the Fire Commission that there is not and will not be sufficient evidence to warrant further proceedings, or that the complaint fails to allege misconduct for which a chief or acting chief may be sanctioned by the Fire Commission: *Provided*, That the designee, or ethics investigator, shall make their respective findings and recommendations to the Fire Commission in writing prior to the Fire Commission dismissing the complaint.

3.13. At any point in the course of an investigation or inquiry, the designee, or ethics investigator, may recommend to the State Fire Commission that there is sufficient evidence to warrant a finding of probable cause that a violation has occurred, or designee, or ethics investigator, shall make their respective findings and recommendations to the Fire Commission in writing, and the Fire Commission shall make a determination whether or not probable cause is found to limit or restrict a certification, suspend a certification, or revoke any certification issued by the Fire Commission. If the Fire Commission finds probable cause that a violation may have occurred, a Complaint and Notice of Hearing shall be issued by the State Fire Commission.

3.14. Upon either a finding of probable cause, or no probable cause by the Fire Commission, , the Fire Marshal shall promptly send a copy of the same, including any supporting documentation, to the complainant.

§87-13-4. Appeal of Denial of Certification; Hearings; Evidence.

4.1. For any person who has been denied certification, or who has had a Complaint issued by the Fire Commission which alleges wrongdoing, and seeks revocation, or suspension of certification, the hearings shall follow the procedures set forth in Series 9 of Title 87 of the West Virginia Code of State Rules. These hearings shall be heard by the Office of Administrative Hearings as provided by West Virginia Code §15A-9-1 *et seq.*

§87-13-5. Orders from proceedings of Office of Administrative Hearings.

5.1. Any final order entered by the Office of Administrative Hearings following a hearing conducted pursuant to these rules shall be made pursuant to the provisions of W. Va. Code §29A-5-3. Such orders shall be entered within forty-five (45) calendar days following the submission of all documents and materials necessary for the proper disposition of the case, including transcripts, and shall contain findings of fact and conclusions of law.

5.2. A copy of the final order shall be served upon the demanding or charged party and/or his or her attorney of record, if any, within ten (10) business days after entry by the Fire Commission by personal service or by registered or certified mail.

§87-13-6. Appeal from proceedings of Office of Administrative Hearings.

6.1. An appeal from any final order entered in accordance with these rules shall comply with the provisions of W. Va. Code § 29A-6-1 *et seq.*

APPENDIX L - WV Code §15A-11-8

§15A-11-8. Powers, duties, and authority of State Fire Commission.

(a) All state and area training and education in fire service shall be coordinated by the State Fire Commission. The State Fire Marshal shall ensure that these programs are operated throughout the state at a level consistent with needs identified by the commission. Beginning on the effective date of the amendment to this section, all trainings approved by the State Fire Commission for Fire Officer 2, shall contain a section on the current laws, rules and regulations governing the fire service. All trainings approved by the State Fire Commission for Firefighter 1, shall contain a section on the Fire Commission, and the Fire Marshal's Office, and the operations of both.

(b) The State Fire Commission may make recommendations to the State Insurance Commissioner regarding town classifications for fire insurance rates.

(c) The formation of any new fire department, including volunteer fire departments, requires the concurrence of the State Fire Commission. The State Fire Commission shall develop a method of certification which can be applied to all fire departments and volunteer fire departments.

(d) The State Fire Commission shall certify the chief, or acting chief, of every department. The Fire Commission shall propose emergency legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement the program established pursuant to this subsection.

(e) The State Fire Commission shall develop a plan for fire prevention and control which shall include, but not be limited to, the following areas: manpower needs, location of training centers, location of fire prevention and control units, communications, fire-fighting facilities, water sources, vehicular needs, public education and information, public participation, standardization in recordkeeping, evaluation of personnel, reporting of fire hazards, programs on mutual aid, location of public safety agencies, outline of fire prevention programs, and accessibility of fire prevention information.

(f) The State Fire Commission shall establish fire protection areas and at such times as funds are available shall establish field offices for inspection, planning, and certification.

(g) The State Fire Marshal may accept, on behalf of the State Fire Commission, gifts, grants, court-ordered civil forfeiture proceedings, and bequests of funds or property from individuals, foundations, corporations, the federal government, governmental agencies, and other organizations or institutions. The State Fire Marshal, acting on behalf of the State Fire Commission, may enter into, sign, and execute any agreements, and do and perform any acts that may be necessary, useful, desirable, or convenient to effectuate the purposes of this article. Moneys from gifts, grants, civil forfeiture proceedings, and bequests received by the State Fire Marshal shall be deposited into the special account set forth in §15A-10-7 of this code, and the State Fire Marshal, with the approval of the State Fire Commission, may make expenditures of, or use of any tangible property, in order to effectuate the purposes of this article.

(h) The State Fire Commission shall establish standards and procedures for fire departments to implement the provisions of this section with regard to the following:

(1) Fire prevention and control;

- (2) Uniform standards of performance, equipment, and training;
- (3) Certification;
- (4) Training and education in fire service, subject to the rule-making requirements set forth in §15A-11-9 of this code; and
- (5) The creation, operation, and responsibilities of fire departments throughout the state.
 - (i) The State Fire Commission may establish advisory boards as it considers appropriate to encourage representative participation in subsequent rulemaking from groups or individuals with an interest in any aspect of the State Fire or Building Code or related construction or renovation practices.
 - (j) The State Fire Commission may deny, suspend, or revoke certification of any fire department, or any chief or acting chief, in the State of West Virginia if a fire department is not in compliance with all applicable laws, rules, and regulations, or the chief or acting chief, does not operate the department in compliance with all applicable laws, rules and regulations, or allows the department, or members of the department to act or operate in a manner that is not in compliance with all applicable laws, rules and regulations.
 - (k) Appeals from any final decision of the Fire Commission shall be heard by the Office of Administrative Hearings pursuant to this chapter, except as otherwise provided in §15A-10-9(b) of this code.
 - (l) The State Fire Commission shall develop procedures to authorize persons with specialized training, but who are not certified as firefighters, to be members of a volunteer fire department to only perform specialized functions, none of which shall be or include firefighting. These specialized functions can include, but are not limited to, swift water rescue, search and rescue, trench rescue, and confined space rescue. The State Fire Commission shall propose legislative rules, and may propose emergency legislative rules, for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement this program, and to set minimum training standards for these types of specialized members.
 - (m) The State Fire Commission shall, in compliance with §21-6-11 of this code, propose emergency legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to specify what activities junior firefighters may and may not participate in.
 - (n) The State Fire Commission shall, by legislative rules proposed for promulgation in accordance with §29A-3-1 *et seq.* of this code, establish minimum probationary volunteer firefighter standards.
 - (1) For the purpose of this subsection, a probationary firefighter means an active member of a volunteer fire department who is 18 years old or older and is not a certified firefighter.
 - (2) A person may serve as a probationary firefighter, at the discretion of the fire chief, for a period not to exceed five years.
 - (3) The Legislature finds that an emergency exists, and therefore, the Fire Commission shall propose an emergency rule to implement the provisions of this subsection in accordance with §29A-3-15 of this code by October 1, 2022.

APPENDIX M – WV CODE 33-3-14d (Define Paid Fire Dept. Classification)

WEST VIRGINIA CODE

CHAPTER 33. INSURANCE.

ARTICLE 3. LICENSING, FEES, AND TAXATION OF INSURERS.

§33-3-14d. Additional fire and casualty insurance premium tax; allocation of proceeds; effective date.

(a)(1) For the purpose of providing additional revenue for municipal policemen's and firemen's pension and relief funds and the Teachers Retirement System Reserve Fund and for volunteer and part-volunteer fire companies and departments, there is hereby levied and imposed an additional premium tax equal to one percent of taxable premiums for fire insurance and casualty insurance policies. For purposes of this section, casualty insurance does not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(2) All moneys collected from this additional tax shall be received by the commissioner and paid by him or her into a special account in the State Treasury, designated the Municipal Pensions and Protection Fund: *Provided*, That on or after January 1, 2010, the commissioner shall pay 10 percent of the amount collected to the Teachers Retirement System Reserve Fund created in §18-7A-18 of this code, 25 percent of the amount collected to the Fire Protection Fund created in §33-3-33 of this code for allocation by the Treasurer to volunteer and part-volunteer fire companies and departments and 65 percent of the amount collected to the Municipal Pensions and Protection Fund: *Provided, however*, That upon notification by the Municipal Pensions Oversight Board pursuant to the provisions of §8-22-18b this code, on or after January 1, 2010, or as soon thereafter as the Municipal Pensions Oversight Board is prepared to receive the funds, 65 percent of the amount collected by the commissioner shall be deposited in the Municipal Pensions Security Fund created in §8-22-18b of this code. The net proceeds of this tax after appropriation thereof by the Legislature is distributed in accordance with the provisions of this section, except for distribution from proceeds pursuant to §8-22-18a(d) of this code.

(b)(1) Before August 1 of each year, the treasurer of each municipality in which a municipal policemen's or firemen's pension and relief fund is established shall report to the State Treasurer the average monthly number of members who worked at least one hundred hours per month and the average monthly number of retired members of municipal policemen's or firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System during the preceding fiscal year: *Provided*, That beginning in the year 2010 and continuing thereafter, the report shall be made to the oversight board created in §8-22-18a of this code. These reports received by the oversight board shall be provided annually to the State Treasurer by September 1.

(2) Before September 1 of each calendar year, the State Treasurer, or the Municipal Pensions Oversight Board, once in operation, shall allocate and authorize for distribution the revenues in the Municipal Pensions and Protection Fund which were collected during the preceding calendar year for the purposes set forth in this section. Before September 1 of each calendar year and after the Municipal Pensions Oversight Board has notified the Treasurer and commissioner pursuant to §8-22-18b of this code, the Municipal Pensions Oversight Board shall allocate and authorize for distribution the revenues in the Municipal Pensions Security Fund which were collected during the preceding calendar year for the purposes set forth

in this section. In any year the actuarial report required by §8-22-20 of this code indicates that no actuarial deficiency exists in the municipal policemen's or firemen's pension and relief fund and that no pension funding revenue bonds of the building commission of such municipality remain outstanding, no revenues may be allocated from the Municipal Pensions and Protection Fund or the Municipal Pensions Security Fund to that fund. The revenues from the Municipal Pensions and Protection Fund shall then be allocated to all other pension and relief funds which have an actuarial deficiency. Pension funding revenue bonds include bonds of a municipality's building commission the net proceeds of which were used to fund either or both of a municipality's policemen's or firemen's pension and relief fund or bonds issued to refinance such bonds.

(3) The Municipal Pensions Oversight Board shall annually review the investment performance of each municipal policemen's or firemen's pension and relief fund. If the municipal pension and relief fund's board fails for three consecutive years to comply with the investment provisions established §8-22-22a of this code, the oversight board may require the municipal policemen's or firemen's pension and relief fund to invest with the Investment Management Board to continue to receive its allocation of funds from the premium tax. If the municipal pension and relief fund fails to move its investments to the Investment Management Fund within the 18-month drawdown period, provided in §8-22-19(e) of this code, the revenues shall be reallocated to all other municipal policemen's or firemen's pension and relief funds that have drawn down one hundred percent of their allocations.

(4) The moneys, and the interest earned thereon, in the Municipal Pensions and Protection Fund allocated to volunteer and part-volunteer fire companies and departments shall be allocated and distributed quarterly to the volunteer fire companies and departments. Before each distribution date, the State Fire Marshal shall report to the State Treasurer the names and addresses of all volunteer and part-volunteer fire companies and departments within the state which meet the eligibility requirements established in §8-15-8A of this code.

(c)(1) Each municipal pension and relief fund shall have allocated and authorized for distribution a pro rata share of the revenues allocated to municipal policemen's and firemen's pension and relief funds based on the corresponding municipality's average monthly number of police officers and firefighters who worked at least one hundred hours per month during the preceding fiscal year. On and after July 1, 1997, from the growth in any moneys collected pursuant to the tax imposed by this section and interest thereon there shall be allocated and authorized for distribution to each municipal pension and relief fund, a pro rata share of the revenues allocated to municipal policemen's and firemen's pension and relief funds based on the corresponding municipality's average number of police officers and firefighters who worked at least 100 hours per month and average monthly number of retired police officers and firefighters. For the purposes of this subsection, the growth in moneys collected from the tax collected pursuant to this section is determined by subtracting the amount of the tax collected during the fiscal year ending June 30, 1996, from the tax collected during the fiscal year for which the allocation is being made and interest thereon. All moneys received by municipal pension and relief funds under this section may be expended only for those purposes described in sections 16 through 28a, inclusive, article 22, chapter eight of this code. Notwithstanding the foregoing provision of this subdivision, if a municipality has outstanding pension funding revenue bonds and continues to pay the normal cost of its policemen's and firemen's pension and relief funds, then the allocable share of revenues to be allocated which would otherwise have been allocated to a municipal policemen's or firemen's pension and relief fund shall instead be allocated to the trustee of any outstanding pension funding revenue bonds.

(2) Each volunteer fire company or department shall receive an equal share of the revenues allocated for volunteer and part-volunteer fire companies and departments.

(3) In addition to the share allocated and distributed in accordance with subdivision (1) of this subsection, each municipal fire department composed of full-time paid members and volunteers and part-volunteer fire companies and departments shall receive a share equal to the share distributed to volunteer fire companies under subdivision (2) of this subsection reduced by an amount equal to the share multiplied by the ratio of the number of full-time paid fire department members who are also members of a municipal firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System to the total number of members of the fire department. If a municipality has outstanding pension funding revenue bonds and continues to pay the normal cost of its policemen's and firemen's pension and relief funds, then the share that would otherwise be payable to the municipality's firemen's pension and relief fund pursuant to this subsection shall be paid to the trustee of such outstanding pension funding revenue bonds.

(d) The allocation and distribution of revenues provided in this section are subject to the provisions of §8-22-20 of this code and §8-15-8a and §8-15-8b of this code.

(e) Based upon the findings of an audit by the Treasurer, the Legislature hereby finds and declares that during the period of 1982 through April 27, 2012, allocations from the Municipal Pensions and Protection Fund were miscalculated and errors were made in amounts transferred, resulting in overpayments and underpayments to the relief and pension funds and to the Teachers Retirement System, and that the relief and pension funds and the Teachers Retirement System were not at fault for any of the overpayments and underpayments. The Legislature hereby further finds and declares that any attempt by the Municipal Pension Oversight Board or other entity to recover any of the overpayments would be unjust and create economic hardship for the entities that received overpayments. No entity, including, without limitation, the Municipal Pension Oversight Board, may seek to recover from a relief or pension fund, the Teachers Retirement System, or the state any overpayments received from the Municipal Pensions and Protection Fund and the overpayments are not subject to recovery, offset or litigation. Pursuant to the audit by the Treasurer, the amount of \$3,631,846.55 is determined owed to specific relief and pension funds through the period of April 27, 2012. The Treasurer is hereby authorized to transfer the amount of \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection Fund, which is hereby reopened for the sole purpose of the transfer and remittances pursuant to this subsection, and to use the amount transferred to remit the amounts due to the pension and relief funds. The payment of \$3,631,846.55 to the pension and relief funds is complete satisfaction of any amounts due and no entity, including, without limitation, the Municipal Pension Oversight Board and any pension or relief fund, may seek to recover any further amounts.

*Note: WV Code updated with legislation passed through the 2020 Regular Session
The West Virginia Code Online is an unofficial copy of the annotated WV Code, provided*

APPENDIX N – NIMS GUIDANCE FOR FIRE SERVICE
Target Audience* **Required Training**

<p><i>County Fire Coordinator Fire Chiefs Deputy Chiefs Command and General Staff members of Type I or Type II Incident Management Teams</i></p>	<p>FEMA IS-700: NIMS, An Introduction FEMA IS-800b: National Response Framework (NRF), An Introduction ICS-100: Introduction to ICS ICS-200: Basic ICS ICS-300: Intermediate ICS ICS-400: Advanced ICS</p>
<p><i>Deputy County Fire Coordinators Fire Protection Specialist Chief Officers who will have supervisory responsibilities as Command and General Staff within an incident management organization (including EOCs) during expanding incidents or those incidents extending into multiple operational periods, referred to in NIMS as Type 3 level incidents (e.g. Chief, Deputy, Assistant, Division, Battalion) Special Team Leaders (USAR, HazMat, Technical Rescue, IMAT)</i></p>	<p>FEMA IS-700: NIMS, An Introduction ICS-100: Introduction to ICS ICS-200: Basic ICS ICS-300: Intermediate ICS</p>
<p>Chief officers who will have the supervisory responsibility of primarily local resources, NIMS Type 4 and 5 level incidents <i>Company Officers (e.g. Captains, Lieutenants) Special Team members (firefighters)</i></p>	<p>FEMA IS-700: NIMS, An Introduction ICS-100: Introduction to ICS ICS-200: Basic ICS</p>
<p>Entry level first responders & disaster workers <i>Firefighters</i></p> <p>Other fire service personnel that require an introduction to NIMS and to the ICS include: <i>Fire Police Dispatchers</i></p>	<p>FEMA IS-700: NIMS, An Introduction ICS-100: Introduction to ICS</p>

** Other titles/positions may be appropriate at the various levels shown in the table. It is impractical to list every job title or position for every discipline.

Core Curriculum for NIMS Discussed in this Document

Course Grouping	Course ID	Course Title
Overview	IS-700	National Incident Management System (NIMS) an Introduction
	IS-800	National Response Framework (NRF), an Introduction
ICS Courses	ICS-100	Introduction to the Incident Command System
	ICS-200	ICS for Single Resources and Initial Action Incidents
	ICS-300	Intermediate ICS
	ICS-400	Advanced ICS

Note that at the time of publication, no other courses are required for NIMS compliance, although a variety of additional NIMS-related training is available including Independent Study courses and ICS Position-Specific training.

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