

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Do Not Mark In This Box
Filing Date

FILED

Aug 27 1 05 PM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Effective Date

Sept 4, 1997

NOTICE OF AN EMERGENCY RULE

AGENCY: STATE FIRE COMMISSION TITLE NUMBER: 87

CITE AUTHORITY: 29-3-5b

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES XX NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED State Building Code

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY:

TITLE OF RULE BEING FILED AS AN EMERGENCY:

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 35TH DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

The adoption of the State Building Code last year eliminated the opportunity of designers to use two choices on stair geometry. As a result, the manufactured housing industry cannot meet the new stair geometry without a significant cost increase to the consumer. The State Fire Commission is correcting this error and permitting stair geometry to be built by the provisions of the exception to the Rule. Without this modification, West Virginia Industry will face financial hardship and possible layoffs.

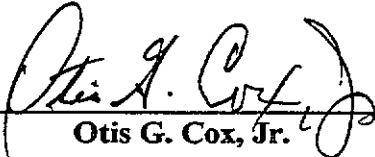
Use Additional Sheets If Necessary.


Signature

WEST VIRGINIA
STATE BUILDING CODE

Rules
of the West Virginia
State Fire Commission

Approved by Secretary, Department of Military Affairs and Public Safety



Otis G. Cox, Jr.

August 27, 1997

Date

Approved by State Fire Commission



Bill L. Spencer, Chairman

August 8, 1997

Date

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

TITLE 87
LEGISLATIVE RULE
STATE FIRE COMMISSION
SERIES 4
STATE BUILDING CODE

87-4-1 GENERAL

1.1 Scope: This rule establishes the standards considered necessary by the State Fire Commission for the safeguarding of life and property and to ensure the quality of construction of all structures erected or renovated throughout this state.

1.2 Authority: West Virginia Code 29-3-5b.

1.3 Filing Date: August 27, 1997

1.4 Effective Date: September ⁴/₁, 1997

1.5 Incorporation of other Documents: This rule does not include a reprinting of all the requirements imposed by statute or by the incorporation of various nationally recognized standards and codes cited in Section 4.1 of this rule. For ascertaining these additional standards and requirements, it is necessary to make reference to the other documents.

87-4-2 DEFINITIONS

2.1 "Building code" - includes all aspects of safe building construction and mechanical operations and all safety aspects related to building construction and mechanical operations.

2.2 "Fire marshal" - means the West Virginia State Fire Marshal and/or his or her designated representatives.

2.3 "Fire Commission" - means the thirteen (13) appointed members of the West Virginia State Fire Commission.

2.4 "Local jurisdiction" - means municipal or county level government.

2.5 "State Building Code" - means the entire contents of this rule and the referenced national codes.

2.6 "BOCA" - refers to the "Building Officials & Code Administrators International".

2.7 "CABO" - refers to the "Council of American Building Officials", 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041.

87-4-3 CONFLICTS

3.1 Whenever there is a conflict between the "state fire code" and the "state building code", the state fire code takes precedence.

3.2 Whenever there is a conflict between the BOCA National Plumbing Code section of the "state building code" and the rules of the West Virginia State Department of Health and Human Resources, the rules of the Department of Health and Human Resources takes precedence.

3.3 Whenever there is a conflict between the "state building code" and statutory laws of the State of West Virginia, the West Virginia Code takes precedence.

87-4-4 NATIONAL STANDARDS AND CODES

4.1 The standards and requirements as set out and as published by the Building Officials & Code Administrators International and the Council of American Building Officials, as listed below, have the same force and effect as if set out verbatim in this rule:

The BOCA National Building Code, Thirteenth Edition, 1996

EXCEPTION TO 1014.6 Treads & Risers: Design and Construction
to be in accordance with 1993 BOCA National Building
Code, Twelfth Edition for one & two family dwellings.

The BOCA International Plumbing Code, First Edition, 1995

The BOCA International Mechanical Code, First Edition, 1996

The BOCA National Property Maintenance Code, Fifth Edition, 1996

This Maintenance Code may be rejected at the option of the local jurisdiction.

The BOCA National Energy Conservation Code, Seventh Edition, 1993

The CABO One - and Two-Family Dwelling Code, 1995 Edition

EXCEPTION to 314.2 Stairway: Design and Construction
of Stair to be in accordance with the 1992 CABO one-
and two-family dwelling code.

4.1.1 The following structures are not subject to inspection by local jurisdictions:

4.1.1.a Group U utility structures and storage sheds comprising an area not more than 150 sq. ft. which have no plumbing or electrical connections and are utilized only for residential storage purposes. (Examples include storage sheds that are for the residential storage of lawnmowers, tools, bicycles or furniture.) Not included are those utility structures and storage sheds which have plumbing or electrical connections or are used for the storage of explosives or other hazardous or explosive materials.

4.1.2 Exceptions:

4.1.2.a References to the CABO Model Energy Code, 1995 Edition, in the various national standards and codes adopted in this section mean the BOCA National Energy Conservation Code, 1993 Edition, as adopted in this section.

4.2 A copy of the codes listed in Section 4.1 of this rule have been filed with the Secretary of State. These code books, collectively or separately, may be obtained by contacting the Building Officials & Code Administrators International, 4051 West Flossmoor Road, Country Club Hills, Illinois 60477-5795, telephone 708/799-2300; or BOCA International Regional Offices, 3592 Corporate Drive, Suite 107, Columbus, Ohio 43231, telephone 614/890-1061.

87-4-5 ADOPTION BY LOCAL JURISDICTION

5.1 Each local jurisdiction adopting the State Building Code shall notify the State Fire Commission in writing. The local jurisdiction shall send a copy of the ordinance or order to the State Fire Marshal, West Virginia State Fire Commission, State Capitol Complex, Charleston, West Virginia 25305, within thirty (30) days of adoption.

5.2 Each local jurisdiction which adopts the State Building Code has responsibility for the enforcement of the building code as provided in West Virginia Code 7-1-3n and 8-12-13.

5.3 Throughout the national codes, as adopted in Section 4.1 of this rule, there are discretionary provisions which require further action by the adopting local jurisdiction in order to adapt these codes to various local conditions. It is therefore the intent of this rule to further authorize each local jurisdiction to further complete, by order or ordinance, those respective areas which are indicated to be completed by the adopting "jurisdiction".

5.4 Within the penalty sections of each of the national codes, as adopted in Section 14.1 of this rule, there is a penalty for imprisonment. The provision of imprisonment for any violation of this rule is optional with each adopting local jurisdiction.

5.5 Each of the national codes, as adopted in Section 4.1 of this rule, provides for a separate appeals board. However, the intent and requirements for an appeal board may be met with the creation by the local jurisdiction of a single appeals board for the entire "State Building Code."

87-4-6 EXISTING BUILDING CODES

6.1 All building codes which have been adopted by local jurisdictions prior to the passage of West Virginia Code 29-3-5b, are null and void.

DATE: August 27, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: WV State Fire Commission

EMERGENCY RULE TITLE: State Building Code

1. Date of Filing August 27, 1997
2. Statutory authority for promulgating emergency rule:
29-3-5b
3. Date of filing of proposed legislative rule: August 27, 1997
4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?
New language will amend current code.
5. Has the same or similar emergency rule previously been filed and expired?
No
6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.
The State Fire Commission revised the State Building Code last year with the option of building stair to either 1992 or 1995 CABO One and Two-Family Dwelling Code. This particular option was lost during the legislative process. Therefore, the State Fire Commission is amending the current code specifically the stair geometry. The manufactured housing industry cannot meet the stair geometry without significant increase in cost to the consumer, and a financial burden to the current industry. The welfare of the industry is jeopardized without this modification which was the intent of the State Fire Commission last year.

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

N/A

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

Manufactured housing industry cannot remain competitive and the public's ability to affordable housing is substantially jeopardized.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

JAN CASTO
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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Supervisor, Corporations

(Plus all the volunteer
help we can get)

September 4, 1997

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: State Fire Commission

RULE: Amendments, Series 4, State Building Code

DATE FILED AS AN EMERGENCY RULE: August 27, 1997

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SEP 4 11 39 AM '97

FILED

DECISION NO. 8-97

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule is **approved**. A copy of the complete decision with required findings is available from this office.


KEN HECHLER
Secretary of State

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

JAN CASTO
Deputy Secretary of State

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EMERGENCY RULE DECISION (ERD 8-97)

AGENCY: State Fire Commission
RULE: Amendments, Series 4, State Building Code
FILED AS AN EMERGENCY RULE: August 27, 1997

- par. 1 The State Fire Commission (Commission) has filed the above amendments to an existing rule as an emergency rule.
- par. 2 West Virginia Code 29A-3-15a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Commission filed this emergency rule with supporting documents with the Secretary of State August 27, 1997 and with the LRMRC August 27, 1997.

par. 7 It is the determination of the Secretary of State that the Commission has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §29-3-5b(a) reads:

The state fire commission shall promulgate and repeal rules and regulations to safeguard life and property and to ensure the quality of construction of all structures erected or renovated throughout this state pursuant to the provisions of §29-1-1 et seq. of this code through the adoption of the state building code. such rules, regulations, amendments or repeals thereof shall be in accordance with standard safe practices so embodied in widely recognized standards of good practice for building construction and all aspects related thereto and shall have force and effect in those counties and municipalities adopting the state building code.

par. 9 It is the determination of the Secretary of State that the Commission has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency -- WV Code 29A-3-15(f) defines "emergency" as follows:

(f) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Commission are as follows:

The adoption of the State Building Code last year eliminated the opportunity of designers to use two choices on stair geometry. As a result, the manufactured housing industry cannot meet the new stair geometry without a significant cost increase to the consumer. The State Fire Commission is correcting this error and permitting stair geometry to be built by the provisions of the exception to the Rule. Without this modification, West Virginia Industry will face financial hardship and possible layoffs.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(f). . . "to prevent substantial harm to the public."

par. 14

This decision shall be cited as Emergency Rule Decision 8-97 or ERD 8-97 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the State Fire Commission, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
Secretary of State

Entered _____

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SEP 4 11 39 AM '97

FILED



FILED

SEP 4 11 14 AM '97

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

State Capitol - Room MB-49
Charleston, West Virginia 25305
(304) 347-4840

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Senator: Mike Ross, Co-Chairman
Delegate: Mark Hunt, Co-Chairman
Counsel: Debra A. Graham

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Audrey R. Ross, Admin. Assistant

August 29, 1997

The Honorable Ken Hechler
Secretary of State
Building 1 - Suite 157K
1900 Kanawha Boulevard, East
Charleston, WV 25305-0770

Re: State Fire Commission - State Building Code (87CSR4)

Dear Secretary Hechler:

The State Fire Commission on August 27, 1997, filed with you an amendment to its legislative rule, State Building Code, relating to stair geometry. The proposed amendment was put out for public hearing, and was also filed in the form of an emergency rule. Our Committee adopted a motion at its August 19, 1997, meeting authorizing us, as co-chairmen, to request that you prepare a favorable Emergency Rule Decision on this emergency rule.


At the Committee meeting several representatives from the housing industry, and in particular, the modular housing industry, addressed the Committee regarding the effect that the current stair geometry standards would have on their industry. According to information they provided to the Committee, the stair geometry standard in West Virginia is different from that of all of the other states. If the standard is not changed, the cost of building stick homes would increase. Also, it would not be possible to sell modular housing in this state without increasing costs, as manufactured modular homes would have to be modified to meet West Virginia standards. As many West Virginians depend on modular housing as a source of reasonably priced housing, the Committee feels it is imperative that this type of housing remain available and reasonably priced.

Letter to Secretary of State
August 26, 1997

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Again, we are requesting on behalf of the Legislative Rule-Making Review Committee that you find that an emergency does exist and approve an emergency rule proposed by the State Fire Commission relating to the State Building Code.

Very truly yours,

Handwritten signature of Michael Ross in cursive script, followed by a vertical line and the initials "arr".

The Honorable Michael Ross
Co-Chairman
Legislative Rule Making Review
Committee

Handwritten signature of Mark Hunt in cursive script, followed by a vertical line and the initials "arr".

The Honorable Mark Hunt
Co-Chairman
Legislative Rule Making Review
Committee

DAG:arr