

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

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FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE Feb. 26, 1988
ADMINISTRATIVE LAW DIVISION

NOTICE OF AN EMERGENCY RULE

AGENCY: Structural Barriers Compliance Board TITLE NUMBER: 183

CITE AUTHORITY: 18-10F-3

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES____, NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: 1

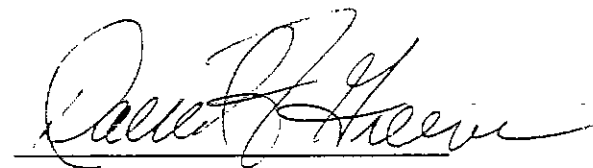
TITLE OF RULE BEING FILED AS AN EMERGENCY: Elimination of Structural
Barriers in Public Buildings

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

The 1987 Legislature mandated that the Structural Barriers Compliance Board be started, and that these changes be made. If we wait until the 1989 session, handicapped people will suffer as this is just too long to wait.

Use Additional Sheets If Necessary.



766-4896

183 CSR 1

Title 183
Legislative Rules
Structural Barriers Compliance Board

Series 1
Elimination of Structural Barriers in Public Use Buildings and Facilities

183-1-1. General.

1.1. Scope.

It is hereby declared to be the public policy of this state that all public use buildings, sidewalks, curbs, and facilities as covered by these regulations be accessible to and functional for persons with physical disabilities without loss of function, space, or facilities insofar as the general public is concerned.

1.2. Authority.

These rules and regulations are issued under the authority of the West Virginia Code, Chapter 18, Article 10F.

1.3. Effective Date.

1.4. Filing Dates.

1.5. Repeals.

These rules and regulations repeals Title 130, Series 3 in its entirety as per Enrolled Senate Bill No. 225.

1.6. Certification.

These rules and regulations are certified authentic by the State Structural Barriers Compliance Board.

183-1-2. Definitions and Exemptions.

2.1. Definitions.

- (1) Public Use Building or Facility - As used in these regulations, a public use building or facility is one to which the public has a general right of access and includes the ways of travel to and from the same.
- (2) Renovation - To restore the building or structure by rebuilding the facility including, but not limited to, electrical and mechanical systems, reconstruction of the exterior shell, extensive reconstruction or rearrangement of assembly space and circulation.
- (3) Alteration - A change or rearrangement in the structural parts or elements of a building or structure.
- (4) Market Value - Market value shall be determined by 100% evaluation of the property as determined by the assessor of the county wherein the property is located.

2.2. Exemptions.

These rules and regulations do not apply to:

- (1) Renovation and/or alteration of a building or facility unless the cost of the construction is more than 50% of the existing market value of the facility.
- (2) Apartment house complexes on any one site with less than twenty units, row houses, rooming houses, or single-family dwellings;
- (3) Garages, hangars, or boat houses;
- (4) Warehouses;
- (5) Buildings specifically built for field service purposes, such as, but not limited to, conservation fire towers, fish hatcheries, or tree nursery buildings;
- (6) Residence halls at colleges or universities which have one or more resident halls so constructed as to allow all persons with physical disabilities reasonable means of access and use of such buildings; and
- (7) Elevators in buildings or facilities not constructed in whole or in part by the use of state, county, or municipal funds or the funds of any other political subdivision of this state when such buildings or facilities are less than three stories in height, measured from the lowest grade to the floor of the highest normally occupied space used for human occupancy.

183-1-3. Review and certification of plans.

Chapter 18, Article 10F of the Code of West Virginia.

A set of final plans shall be certified by a registered architect or registered professional engineer practicing within the confines of their respective registration laws and such owners shall notify the State Fire Marshal of such certification or shall submit to the State Fire Marshal, or to a Fire Prevention Bureau or a building department approved by the State Fire Marshal, a set of final plans for review and approval prior to construction to assure compliance with the provisions of this Article and with any and all reasonable rules and regulations promulgated hereunder.

183-1-4. Incorporation of other standards.

- 4.1. The Structural Barriers Compliance Board hereby adopts the latest version of the American National Standard Institute's standard for buildings and facilities providing accessibility and usability for persons with physical disabilities. (ANSI-A117.1)
- 4.2. The State Fire Marshal shall apply the standards and requirements within said publications in all matters under his jurisdiction.
- 4.3. A copy of said "American National Standard for Buildings and Facilities--Providing Accessibility and Usability for Physically Handicapped People," as revised, has been filed with the Secretary of State's office.
- 4.4. Information regarding purchase of aforesaid "American National Standard for Buildings and Facilities--Providing Accessibility and Usability for Physically Handicapped People" (ANSI-A117.1) may be obtained by writing to: American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

183-1-5. Accessible elements and spaces - technical and minimum requirements.

5.1. Accessible Sites and Exterior Facilities.

An accessible site shall meet the following minimum requirements;

- (1) At least one accessible route complying with ANSI 4.3 within boundary of the site from public transportation stops, accessible parking spaces, passenger loading zones, when provided, and public streets or sidewalks to an accessible building entrance;
- (2) At least one accessible route complying with ANSI 4.3 shall connect accessible buildings, facilities, elements, and spaces that are on the same site;
- (3) All objects that protrude from surfaces or posts into circulation paths shall comply with ANSI 4.4;
- (4) Ground surfaces along accessible routes and in accessible spaces shall comply with ANSI 4.5;
- (5) When parking spaces are provided for employees or visitors or both, accessible spaces complying with ANSI 4.6 shall be provided in each such parking area in conformance with the following table:

<u>Total Parking in Lot</u>	<u>Required Minimum Number of Accessible Spaces</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	*
1001 and over	**
* 2 percent of total.	
** 20 plus 1 for each 100 over 1000.	

Exception: The total number of accessible parking spaces may be distributed among parking lots, if greater accessibility is achieved.

The total number of reserved parking spaces does not apply to government or company vehicles owned or leased for their use.

- (a) When passenger loading zones are provided, then at least one shall comply with ANSI 4.6.3.
- (b) Parking spaces at accessible housing complying with ANSI Section 4.6 shall be provided in accordance with the following:
 - 1) Where parking is provided for all residents, one accessible parking space shall be provided for each accessible dwelling unit.
 - 2) Where parking is provided for only a portion of the residents, an accessible parking space shall be provided on request of occupant of an accessible dwelling unit.
- (6) When toilet facilities are provided on a site, then each public or common use toilet facility shall comply with ANSI 4.22.

Exception: These provisions are not mandatory for single user portable toilet or bathing units clustered at a single location; however, at least one toilet unit complying with ANSI 4.17 or one bathing unit complying with ANSI 4.22 should be installed at each location wherever standard units are provided.

- (7) All signs shall comply with ANSI 4.28. Elements and spaces of accessible facilities which shall be identified by the International Symbol of Access are:
 - (a) Parking spaces designated as reserved for persons with physical disabilities;
 - (b) Accessible passenger loading zones if more than one is provided;
 - (c) Direction to accessible entrance if other than main entrance; and
 - (d) Accessible toilet and bathing facilities if all are not accessible.

5.2. Accessible Buildings.

New construction, accessible buildings and facilities shall meet the following minimum requirements:

- (1) At least one accessible route complying with ANSI 4.3 shall connect accessible building or facility entrances with all accessible spaces and elements within the building or facility;
- (2) All objects that overhang circulation paths shall comply with ANSI 4.4;
- (3) Ground and floor spaces along accessible route and in accessible rooms and spaces shall comply with ANSI 4.5;

- (4) Stairs connecting levels that are not connected by an elevator shall comply with ANSI 4.9;
 - (5) One passenger elevator complying with ANSI 4.10 shall serve each level in all multi-story buildings and facilities where required from the lowest grade to the floor of the highest normally occupied space used for human occupancy. (See 2.2 Exemption.)
 - (6) Windows in buildings and facilities designed to be operated by persons with physical disabilities should have lock and opening devices located in reach as indicated in ANSI 4.2;
 - (7) Doors:
 - (a) At each accessible entrance or route to a building or facility, at least one door shall comply with ANSI 4.13;
 - (b) Within a building or facility, at least one door at each accessible space shall comply with ANSI 4.13;
 - (c) Each door required by ANSI 4.3.10 Egress shall comply with ANSI 4.13.
- Exception:** In multiple story buildings and facilities where at-grade egress from each floor is impossible, either of the following is permitted:
- 1) The provision within each story of an approved two-hour fire rated and smoke partition that creates horizontal exits; or
 - 2) The provision within each floor of areas of refuge approved by the State Fire Marshal or his approved designee.
- (8) Entrance:

At least one principal entrance at each grade floor level to a building or facility shall comply with ANSI 4.14.
Because entrances also serve as emergency exits, whose proximity to all parts of buildings and facilities is essential, it is preferable that all or most exits be accessible.
 - (9) Drinking Fountains:

When drinking fountains or water coolers are provided, approximately 50% of those provided on each floor shall comply with ANSI 4.15 and shall be on an accessible route. When only one drinking fountain or water cooler is provided on any floor, it shall be a dual height unit;
 - (10) Toilet Facilities:

When toilet facilities are provided on each level, at least one shall comply with ANSI 4.22 and have accessible fixtures. When bathing facilities are provided on each level, at least one shall comply with ANSI 4.20 or ANSI 4.21.
 - (11) Storage:

When storage facilities are used by persons with physical disabilities, at least one of each type shall be provided and comply with ANSI 4.23;
 - (12) Controls and Operating Mechanisms:

Controls and operating mechanisms in accessible spaces, along accessible routes or as parts of accessible elements, (for example, light switches and dispenser controls) shall comply with ANSI 4.25;

- (13) Emergency Warning System:
When emergency warning systems are provided, they shall include both audible and visual signals complying with ANSI 4.26;
- (14) Tactile Warnings:
Tactile warnings shall be provided at hazardous conditions as specified in ANSI 4.27;
- (15) When signs are provided, they shall comply with ANSI 4.28;
- (16) Public Telephones:

- (a) When public telephones are provided, accessible telephones shall comply with ANSI 4.29 and the following table:

<u>Number of Public Telephones Provided on Each Floor</u>	<u>Number of Telephones Required to be Accessible</u>
1 or more single unit installation	1 per floor
1 bank*	1 per floor

*A bank consists of two or more adjacent public telephones, often installed as a unit.

- (b) At least one of the public telephones complying with ANSI 4.29 shall be equipped with a volume control.

- (17) Seating, Tables and Work Surfaces:
When fixed or built-in seating, tables, or work surfaces, are provided in accessible space, at least 5%, but always at least one, of seating spaces; tables or work surfaces, can be easily changed to comply with ANSI 4.30;

- (18) Place of Assembly:

- (a) When places of assembly are provided, they shall comply with the ANSI 4.31 and the following table:

<u>Capacity of Seating & Assembly Areas</u>	<u>Number of Required Wheelchair Locations</u>
50 to 75	3
76 to 100	4
101 to 200	5
201 to 300	6
301 to 400	7
401 to 500	8
501 to 1,000	*
Over 1,000	**

* 2 percent of total

** 20 plus 1 for each 100 over 1,000

- (b) Assembly areas with audio amplification systems shall have a listening system complying with ANSI 4.31 to assist a reasonable number of people, but no fewer than two, with severe hearing loss.

5.3. Classification of Occupancy.

(1) General Exception:

Accessibility is not required to elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks, electrical and telephone closets, and general utility rooms.

(2) Assembly:

Assembly occupancies include, but are not limited to, all buildings or portions of buildings used for gathering together fifty or more persons for such purposes as deliberation, worship, entertainment, eating, drinking, amusement, or awaiting transportation. Assembly occupation include:

Theaters	Dance halls
Motion picture theaters	Club rooms
Assembly halls	Passenger stations and
Auditoriums	terminals of air, surface,
Exhibition halls	underground, and marine
Museums	public transportation
Libraries	facilities
Skating rinks	Recreation piers
Gymnasiums	Courtrooms
Bowling lanes	Conference rooms
Pool rooms	Drinking establishments
Armories	Mortuary chapels
Restaurants	College and university class-
Churches	rooms, fifty persons and over
Civic centers	

Occupancy of any room or space for assembly purposes by less than fifty persons in a building of other occupancy and incidental to such other occupancy shall be classed as part of the other occupancy and subject to the provisions applicable thereto.

All portions of a building that are open to the general public or may be used by the general public or which may be used by persons with physical disabilities employed or seeking employment at such building or facility shall be accessible and usable by persons with physical disabilities. (See 2.2 Exemption.)

(3) Educational:

Educational occupancies include all buildings used for the gathering of groups of six or more persons for purposes of instruction. Educational occupancies include:

Schools	Nursery schools
Academies	Kindergartens

All portions of a building that are open to the general public or may be used by the general public or which may be used by persons with physical disabilities employed or seeking employment at such building or facility shall be accessible and usable by persons with physical disabilities. (See 2.2 Exemption.)

(4) Health Care:

Health care occupancies are those used for purposes such as medical or other treatment or care of persons suffering from physical or mental illness, disease or infirmity; and for the care of infants, convalescents, or infirm aged persons. Health care occupancies provide sleeping facilities for the occupants or are occupied by persons who are mostly incapable of self-preservation because of age, physical or mental disability, or because of security measures not under the occupants' control. Health care occupancies include:

(a) Hospitals:

In general purpose hospitals, at least 10% of patient toilets, bedrooms, and all portions of a building that are open to the general public or may be used by the general public or which may be used by persons with physical disabilities employed or seeking employment at such building or facility shall be accessible and usable by persons with physical disabilities. (See 2.2 Exemption.)

(b) Nursing homes, supervisory care facilities:

At least 50% of patient toilets, bedrooms, and all portions of a building that are open to the general public or may be used by the general public or which may be used by persons with physical disabilities employed or seeking employment at such building or facility shall be accessible and usable by persons with physical disabilities. (See 2.2 Exemption.)

(c) Ambulatory care facilities:

In ambulatory care facilities, all patient toilets, bedrooms, and all portions of a building that are open to the general public or may be used by the general public or which may be used by persons with physical disabilities employed or seeking employment at such building or facility shall be accessible and usable by persons with physical disabilities. (See 2.2 Exemption.)

(5) Detention and correctional occupancies:

Detention and correctional occupancies (also known as Residential-Restrained Care Institutions) are those used to house occupants under some degree of restraint or security. Detention and correctional occupancies are occupied by persons who are mostly incapable of self-preservation because of security measures not under the occupants' control. Detention and correctional occupancies include:

Residential-restrained care	Jails
Penal institutions	Detention centers
Reformatories	Pre-Release centers

In occupancies where occupants are under some degree of restraint or restriction for security reasons, 5% of residential units and all portions of a building that are open to the general public or may be used by the general public or which may be used by persons with physical disabilities employed or seeking employment at such building or facility shall be accessible and usable by persons with physical disabilities. (See 2.2 Exemption.)

(6) Residential:

Residential occupancies are those occupancies in which sleeping accommodations are provided for normal residential purposes and include all buildings designed to provide sleeping accommodations.

Exception: Those classified under Health Care or Detention and Correctional Occupancies.

Residential occupancies include:

Hotels	Motels
Dormitories	Apartments or townhouse complex
Orphanages for age 6 years and older	One and two-family dwellings
Lodging or rooming houses	Board and care facilities
Military housing	

- (a) In residential occupancy such as hotels, motels, and boarding houses, 5% of the total units and all portions of a building that are open to the general public or may be used by the general public or which may be used by persons with physical disabilities employed or seeking employment at such building or facility shall be accessible and usable by persons with physical disabilities. (See 2.2 Exemption.)
- (b) In residential occupancies in multiple dwelling where the occupants are primarily permanent in nature (over thirty days), at least 5% of the total units and all portions of a building that are open to the general public or may be used by the general public or which may be used by persons with physical disabilities employed or seeking employment at such building or facility shall be accessible and usable by persons with physical disabilities. (See 2.2 Exemption.)
- (c) In military housing which is primarily available for able-bodied military personnel and their dependents, at least 5% of the units will be designed and built to be either accessible or readily and easily modifiable to be accessible. Common areas, such as walks, streets, parking, and play areas, and common entrances to multi-unit facilities shall be designed and built to be accessible.

(7) Mercantile:

Mercantile occupancies include stores, markets, and other rooms, buildings, or structures for the display and sale of merchandise. Included in this occupancy group are:

Supermarkets
Department stores
Auction rooms

Shopping centers
Drugstores

Minor merchandising operations in buildings predominantly of other occupancies, such as a newsstand in an office building, shall be subject to the requirements of the predominant occupancy. All portions of a building that are open to the general public or may be used by the general public or which may be used by persons with physical disabilities employed or seeking employment at such building or facility shall be accessible and usable by persons with physical disabilities. (See 2.2 Exemption.)

(8) Business:

Business occupancies are those used for the transaction of business (other than that covered under Mercantile) for the keeping of accounts and records, and similar purposes. Included in this occupancy group are:

Doctors' offices	Courthouses
Dentists' offices	Outpatient clinics, ambulatory
City halls	College and university-instructional
General offices	buildings, classrooms under
Town halls	fifty persons, and instructional
	laboratories

Minor office occupancy incidental to operations in another occupancy shall be considered as a part of the predominating occupancy. All portions of a building that are open to the general public or may be used by the general public or which may be used by persons with physical disabilities employed or seeking employment at such buildings or facility shall be accessible and usable by persons with physical disabilities. (See 2.2 Exemption.)

(9) Industrial:

Industrial occupancies include factories making products of all kinds and properties devoted to operations such as processing, assembling, mixing, packaging, finishing or decorating, and repairing, including, among others, the following:

Factories of all kinds	Creameries
Laboratories	Gas plants
Dry cleaning plants	Refineries
Power plants	Sawmills
Pumping stations	College and university
Smokehouses	non-instructional
Laundries	laboratories

All portions of a building that are open to the general public or may be used by the general public or which may be used by persons with physical disabilities employed or seeking employment at such building or facility shall be accessible and usable by persons with physical disabilities. (See 2.2 Exemption.)

- (10) Storage:
Storage occupancies include all buildings or structures utilized primarily for the storage or sheltering of goods, merchandise, products, vehicles, or animals. Included in this occupancy group are:

Warehouses	Parking garages
Cold storage	Freight terminals
Truck and marine terminals	Barns
Bulk oil storage	Stables

All portions of a building that are open to the general public or may be used by the general public or which may be used by persons with physical disabilities employed or seeking employment at such building or facility shall be accessible and usable by persons with physical disabilities. (See 2.2 Exemption.)

5.4. Accessible Building - Additions.

Each addition to an existing building shall comply with ANSI 4.1, Minimum Requirements.

Exemptions:

- (1) Entrances
When a new addition to a building or facility does not have an entrance, at least one entrance in existing building or facility shall have accessible entrance.
- (2) Accessible Route
When the only accessible entrance to the addition is located in existing building, an accessible route shall be provided to all elements of space in the new addition.
- (3) Toilet and Bathing Facilities
When no accessible toilet rooms are provided in the new addition, there must be accessible toilet facilities in existing facility.

5.5. Accessible Building - Alterations.

Alterations must meet the same requirements as for new construction wherein values of 50% or more of the existing market value of the building or facility will be added. (See 2.2 Exemption.)

5.6. Accessible Buildings - Historic Preservation.

- (1) At least one accessible route complying with ANSI 4.3 from a site access point to an accessible entrance shall be provided.
- (2) At least one accessible entrance which is used by the public complying with ANSI 4.14 shall be provided.

Exceptions: When it is determined that no entrance used by the public can comply with ANSI 4.14, then access at any entrance may be used with directional signs at the primary entrance.

- (3) When toilets are provided, at least one toilet facility complying with ANSI 4.17 shall be provided along an accessible route. Such toilet facility may be "unisex" in design. (See 2.2 Exemption.)
- (4) All alterations must conform to Secretary of the Interior's Guidelines for the Rehabilitation Historic Buildings & Structures."

5.7. Special Provisions for the Safety of the Handicapped (Mobility Impaired) In New Buildings.

Every new building having stories required to be accessible to the handicapped (mobility impaired) shall have such stories divided into not less than two smoke compartments by barriers of one hour fire resistance in accordance with the State Fire Code. One compartment may be the elevator lobby.

Exceptions:

- (1) Stories opening directly to grade.
- (2) Stories having ramps to grade.
- (3) Stories used solely for the service of the building.
- (4) Buildings or stories used only as a parking garage.
- (5) Buildings protected throughout by an approved supervised automatic sprinkler system in accordance with The State Fire Code.
- (6) Large open spaces such as atriums, shopping malls, industrial plants or assembly occupancies where the exits and elevators, if provided, are so distributed that not all will be affected by a single emergency occurrence and occupants can be assumed to be aware of the emergency in any part of the space.
- (7) Buildings permitted to have a single exit by The State Fire Code.
- (8) Health Care Occupancies.

Each compartment required by this section shall meet the following requirements:

- (a) Each compartment shall be at least 100 square feet in area.
- (b) When the compartment is other than the elevator lobby, it shall provide at least 15 square feet per person for 1% of the occupant load of the story.
- (c) Each compartment shall be provided with an elevator with protected power supply or an exit.
- (d) Each compartment shall be identifiable for handicapped refuge.
- (e) Each compartment shall have an emergency telephone system as approved by the State Fire Marshal.

183-1-6. Appeal Procedures.

Appeal procedures are on file with the Secretary of State.

183-1-7. Severability.

The sections and subsections of these rules and regulations shall be deemed severable. Should any section or subsection be deemed by judicial opinion unconstitutional or in any manner contrary to the laws of the State of West Virginia, then such opinion or enactment shall invalidate only that particular section or subsection of these rules and regulations and all other sections shall remain in full force and effect (provided such remaining portions are not determined to be inseparable) and to this end these rules and regulations are declared separable.