

<b>Regulatory Analysis Form</b>		<b>This space for use by IRRC</b>
<b>(1) Agency</b> Department of Labor and Industry		IRRC Number: <i>2202</i>
<b>(2) I.D. Number (Governor's Office Use)</b> 12-57		
<b>(3) Short Title</b> Uniform Construction Code, Training and Certification Requirements for Code Administrators		
<b>(4) PA Code Cite</b> 34 Pa. Code §§ 401.1-401.16	<b>(5) Agency Contacts &amp; Telephone Number</b> Charles J. Sludden, Jr. (717) 787-3323	
<b>(6) Type of Rulemaking (Check One)</b> <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	<b>(7) Is a 120 Day Emergency Certification Attached?</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
<b>(8) Briefly explain the regulation in clear and nontechnical language</b>  <p>This regulation provides detailed guidance for the implementation of the training and certification provisions of the Act of November 11, 1999 (P.L.491, No. 45), known as the Pennsylvania Construction Code Act (Act). The purpose of the Act is to establish a Uniform Construction Code (UCC) which will provide statewide standards for the protection of life, health, property and environment, for the safety, accessibility and welfare of the consumer, general public, and the owners and occupants of all buildings and structures in this Commonwealth. All municipalities will utilize the UCC to insure that this Commonwealth has a uniform, modern construction code that will provide safety, healthy and sanitary construction, promote state-of-the-art techniques and encourage cost-effectiveness. All code administrators must be adequately trained and supervised under the Act. Code administrators are municipal code officials, construction code officials, third-party agencies, or the Department.</p> <p>The purpose of this regulation is to establish the training and certification requirements in specific categories for code administrators under the UCC. This regulation provides a certification program and establishes minimum continuing education requirements for code administrators. It also contains procedures and the grounds for decertification for just cause. It provides for mandatory for liability insurance coverage for third-party agencies. The regulation provides for a time period in which current code administrators must meet the training and certification requirements. Current code administrators must register with the Department until they meet the training and certification requirements. It provides for certification and training waivers for code administrators who have previously satisfied substantially similar training, testing and certification requirements. The Department will maintain a list of code administrators, indicating the categories of certification that will be available to the municipalities and the public. The regulation contains fees for certification and renewals.</p>		

# Regulatory Analysis Form

**(9) State the Statutory Authority for the regulation and any relevant state or federal court decisions.**

This regulation is submitted under the authority found in section 701 of the Act (35 P.S. § 7210.701), which requires the Department of Labor and Industry (Department) to promulgate regulations establishing a training and certification program for all categories of code administrators. The purpose of Act 45 is to establish a statewide building code, Uniform Construction Code (UCC), which will provide uniform standards for builders, and greater protection for building owners and occupants, and the general public. Since the passage of the Act, the Department has received numerous requests for guidance on training and certification from current code administrators, municipalities and third-party agencies. In order to provide ample time to these entities to plan and prepare for the effective date of the UCC, the Department determined it was necessary to promulgate this regulation on training and certification before the regulation establishing the UCC.

Specifically, Section 701 requires regulations relating to the training and certification of code administrators in appropriate categories relating to the work that they perform. A code administrator is a municipal code official, a construction code official, a third-party agency or the Department.

The Department has to establish procedures relating to waiver of the initial training and certification requirements for individuals who present documentation that they have previously satisfied substantially similar training, testing and certification requirements. The Department is mandated to determine time periods for current code administrators to meet training and certification requirements dependant on whether the individual inspects one- or two-family residential property or is involved in the inspection of all other buildings and structures. Continuing education requirements must be adopted by regulation. The Department is empowered to decertify code administrators and to require their participation in remedial education programs for just cause. The Department shall maintain a list of code administrators and their certification categories that will be available to the public and municipalities. The Department shall adopt reasonable fees for educational programs and testing and certification of code administrators. Regulations concerning mandatory liability insurance for third-party agencies are to be adopted.

**(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.**

This regulation is mandated by section 701 of the Act (35 P.S. § 7210.701), which requires the Department to issue regulations establishing a program of required training and certification for all categories of code administrators. Also, the Department has to establish procedures relating to waiver of the initial training and certification requirements for individuals who present documentation that they have previously satisfied substantially similar training, testing and certification requirements. The Department is mandated to determine time periods for current code administrators to meet training and certification requirements dependant on whether the individual inspects one- or two-family residential property or is involved in inspections of all other buildings and structures. Continuing education requirements must be adopted by regulation. The Department is empowered to decertify code administrators and to require their participation in remedial education programs for just cause. The Department is required to maintain a list of code administrators and their certification categories that will be available to the public and municipalities. The Department shall adopt reasonable fees for educational programs and the testing and certification of code administrators. Regulations concerning mandatory liability insurance for third-party agencies are to be adopted.

# Regulatory Analysis Form

**(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?**

The purpose of Act 45 is to establish a statewide building code, Uniform Construction Code (UCC), which will provide uniform standards for builders, greater protection for building owners and occupants and the general public and state-of-the-art techniques. Code administrators must be trained and certified to implement and enforce the UCC. Code administrators will be tested in specific areas to assure their competence in the areas related to their work. Certified code administrators are to be regulated for public protection. Ongoing continuing education will keep code administrators current in their fields. In order to allow municipalities, current code administrators and third-party agencies ample time to plan and prepare for the effective date of the UCC, the Department determined that it was necessary to promulgate this regulation on training and certification before the regulation establishing the UCC. This will allow the Department and municipalities to begin enforcing the UCC when it takes effect. This regulation implements the training and certification provisions of the Act, which are intended to insure consistency and uniformity in qualification criteria.

**(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.**

The Act requires the Department to promulgate this regulation. The major consequence of not promulgating regulations is that there would be no standards for the training and certification of code administrators. The Department and municipalities will not have enough certified code administrators to enforce the UCC and approve construction. Absent a certification and training program, there is no guarantee that code administrators throughout the Commonwealth possess basic competence or will enforce uniform standards. With the training and certification program established by this regulation, the public will be assured that code administrators have specific knowledge of UCC safety and construction standards.

**(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)**

The general public will benefit from this regulation. The training and certification program established by this regulation will insure that code administrators have specific knowledge of UCC safety and construction standards. Code administrators will have to pass examinations relating to state-of-the-art construction standards utilized by model code organizations and take continuing education courses to stay current with these standards. This training and certification will help eliminate the discrepancies in enforcement and variation of standards used in construction in this Commonwealth. Implementation of regulatory standards provides standards governing the conduct of code administrators. The Department will list code administrators and their fields of certification for the public and municipalities. Liability insurance protects clients who utilize third-party agencies.

# Regulatory Analysis Form

**(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)**

This regulation requires certification of code administrators. It contains a "grandfather" provision for current code administrators, which allows them 3 years for residential and 5 years to become certified. Current code administrators should not be adversely affected by these regulations. If current code administrators do not become certified within the time frames provided in this regulation, they will be unable to continue to work in that capacity. Prospective code administrators are required to become certified prior to performing work in the code administrator certification categories. It is anticipated that approximately 60% of the Commonwealth's 2,570 municipalities will have to implement steps to ensure that code administrators are registered or certified and that certified code administrators comply with continuing education requirements. Moreover, an estimated 100 third-party agencies will have to comply with the errors and omissions liability insurance and reporting requirements relating to their employees.

**(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)**

This regulation requires compliance of approximately 4,000 to 6,000 persons who are involved in the enforcement of the code. This includes approximately 100-150 code administrators employed by the Department; 2,000-4,000 code administrators employed by municipalities; and, 1,000-2,000 code administrators employed by third-party agencies.

**(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.**

Since the passage of the Act, the Department has undertaken extensive outreach and communication efforts to gain input from the various affected parties including the three Pennsylvania Chapters of BOCA, representatives from BOCA international, Pennsylvania Code Training Consortium (CTC), Pennsylvania Housing Research Center (PHRC), Building Codes Assistance Project (BCAP), and United States Department of Energy (DOE). The Department has utilized a website to provide updates on the regulatory process and to solicit comments and questions. The Department received electronic mail messages and questions concerning the UCC on its website. It held two large stakeholder meetings. Members of the Department's Implementation Team also met with interested persons and groups to answer questions and obtain their suggestions. These persons or groups included: Pennsylvania Home Builders Association, PennBoc, American Association of Architects (Pennsylvania Chapter), City of Harrisburg, City of Pittsburgh-Bureau of Building Inspection, Certaineed insulation manufacturers, Pennsylvania Ski Areas Association, Pflow Industries, Inc.-Vertical Reciprocating Conveyor Group, PM Associates of York-elevator inspectors, Delta Development Group representing Steel Inspection Agency, PA Housing Resource Center, and the Borough of Mount Joy. Moreover, members of the Department's drafting team also met informally with any interested group or person almost weekly.

**(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.**

The regulated community will receive no savings from the promulgation of this regulation. There will be some costs associated with the certification and continuing education requirements. The Department estimates that the initial cost for each certification will be approximately \$500 to \$1,500. This figure will vary depending upon an individual's knowledge and experience. The Department estimates that continuing education costs will be approximately \$30-\$150 per certified individual per year. Liability insurance for third-party agencies will cost approximately \$500 for an individual and \$1,500 to \$2,000 for a group of code administrators.

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- (18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.**

Local governments will only incur costs if they chose to administer the UCC. The Department estimates that initial costs for certification for existing code administrators will be approximately \$150-1,500 per person including the costs of preparation courses. The Department estimates that continuing education costs per certified employ will be approximately \$30-150 per year.

- (19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.**

The Department estimates that Labor and Industry's administration of the UCC will cost \$700,000 to \$1,500,000 over a 5-year period. The majority of these costs will be sustained in the first 2 years of the program. These costs will be for training Department inspectors under a contract with BOCA. This also includes start up costs for issuing certification, on-record keeping costs, costs for decertification and appeal costs.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY+1 Year	FY+2 Year	FY+3 Year	FY+4 Year	FY+5 Year
<b>SAVINGS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>	0	0	0	0	0	0
<b>COSTS:</b>						
Regulated Community	0	0	\$500,000	\$1600000	100,000	100,000
Local Government	0	0	0	0	0	0
State Government	0	\$300,000	\$300,000	\$200,000	\$100,000	\$100,000
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
Regulated Community	N/a	N/a	N/a	N/a	N/a	N/a
Local Government	N/a	N/a	N/a	N/a	N/a	N/a
State Government	N/a	N/a	N/a	N/a	N/a	N/a
<b>Total Revenue Losses</b>						

(20a) Explain how the cost estimates listed above were derived.

These are general estimates based on what the Department's estimates its costs will be. A "grandfather" provision allows current code administrators to engage in work for 3 years for residential and 5 years for commercial code administrator categories before certification is mandatory (§ 401.15). Local government will only incur costs if they choose to administer the UCC (see #18). These costs relate to the certification of code administrators and the furnishing of continuing education. Because this is a new program there is currently no revenue generated.

These costs are based on BOCA training course costs and testing fees. It is estimated that the Department will receive an average of \$85,000 in certification revenues per year bases upon the estimated number of certifications in Item 15. The range of certified individuals is 4-6,000. [5,000 certifications multiplied by \$50 (certification cost) divided by 3 (certifications are good for three years) equals \$83,300.]

# Regulatory Analysis Form

**(20b) Provide the past three year expenditure history for programs affected by the regulation.**

Program	FY-3	FY-2	FY-1	Current FY
New program	N/A	N/A	N/A	N/A

**(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.**

N/A

**(22) Describe the non regulatory alternative considered and the costs associated with those alternatives. Provide the reasons for their dismissal.**

There is no effective non-regulatory alternative. The Act requires the Department to promulgate this regulation.

**(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.**

The Act mandates a certification program; there were no alternative regulatory schemes that could adequately address the Act.

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**(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.**

There are no federal standards regulating training and certification of code administrators.

**(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?**

The Department has incorporated National BOCA code administrator categories and certification requirements in this regulation. The requirements of this regulation relating to training and certification are similar to those found in other states. This regulation will not adversely affect Pennsylvania's competitiveness with other states because all states must implement a statewide building code and provide for certification of code administrators. In fact, failure to implement the building code would place the Commonwealth at a disadvantage because it would not be mandated to implement state-of-the art construction techniques and eliminate obsolete, needless and redundant construction requirements.

**(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.**

This regulation does not affect other regulations of the Department or the regulations of other state agencies.

**(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.**

The Department has engaged in extensive outreach and communication efforts to gain input from the various affected parties including representatives from BOCA, three regional Pennsylvania Chapters of BOCA, Pennsylvania Code Training Consortium (CTC), Pennsylvania Housing Research Center (PHRC), Building Codes Assistance Project (BCAP), and United States Department of Energy (DOE). The Department attended the CTC's inaugural meeting in October 1999 and has attended its subsequent quarterly meetings. On December 16, 1999, the Department held a general stakeholders' meeting to discuss the act and identify stakeholders. On June 16, 2000, the Department posted a draft of this training and certification regulation on its website and solicited comments from stakeholders. The Department has received and answered numerous emails and faxes concerning certification and other aspects of the UCC. On July 19, 2000, the Department held a stakeholders' meeting on its draft training and certification regulations. The Department had an internet site containing its proposed regulations, frequently asked questions and updates. On July 26, 2000, the Department posted some proposed changes to its draft regulation on its internet site. The Department's Implementation Team consistently met with interested persons and groups as noted in item 16.



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- (28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.**

This regulation will require the creation of new forms and reporting requirements. Current code administrators will be required to register and furnish employment information to the Department. Prospective code administrators will be required to submit proof of completion of testing and an application for certification. All code administrators will be required to provide documentation of continuing education for certification renewal. Third party agencies will be required to submit applications containing lists of code administrators and documentation of insurance coverage. Third-party agencies will also have to update this information. Copies of forms and reports are not available at this time. Identification cards will be provided to certified or registered code administrators. The Department will also have to maintain a list of code administrators available to the public and municipalities. Additionally, it will have to provide information on acceptable providers of continuing education credits.

- (29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.**

Sections 106, 301(4) and (5), 501(f) and 701(e)(2) of the Act (35 P.S. §§ 7210.106, 7210.301(4) and (5), 7210.501(f) and 7210.701(e)(2)) address accessibility. Section 401.7(k) of the rulemaking provides for certification in the subcategory of "accessibility specialist". An inspector may not be a "current code administrator" for accessibility and must be certified to conduct inspections and reviews of accessibility requirements. Section 701(e)(2) of the Act (35 P.S. § 7210.701(e)(2)). The Department's Accessibility Advisory Board reviewed and has no objections to these regulations.

- (30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?**

This regulation will be effective upon their final publication in the *Pennsylvania Bulletin*.

<b>CDL-1</b> <b>FACE SHEET</b> <b>FOR FILING DOCUMENTS</b> <b>WITH THE LEGISLATIVE REFERENCE BUREAU</b> <b>(Pursuant to Commonwealth Documents Law)</b>		<p style="text-align: right;">Do Not Write In This Space</p>
<p>#2202</p>		
Copy below is hereby approved as to Form and legality. Attorney General.  By: _____ DEPUTY ATTORNEY GENERAL  _____ DATE OF APPROVAL  <input type="checkbox"/> Check if applicable. Copy not approved. Objections attached.	Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:  <u>DEPARTMENT OF LABOR &amp; INDUSTRY</u> (AGENCY)  Document/Fiscal Note No. <u>12-57</u>  Date of Adoption: _____ By: <u>Johnny J. Butler</u> JOHNNY J. BUTLER  Title: <u>Secretary of Labor &amp; Industry</u> (Executive Officer, Chairman or Secretary)	Copy below is hereby approved as to form and legality. Executive or independent Agencies. <u>[Signature]</u> By: _____  <u>1/29/02</u> DATE OF APPROVAL  (Deputy Attorney General) ( <del>Chief Counsel, Independent Agency</del> ) (Strike inapplicable title)  <input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.

**FINAL RULEMAKING**  
**DEPARTMENT OF LABOR AND INDUSTRY**  
**34 PA. CODE, CHAPTER 401, PART XIV**  
**UNIFORM CONSTRUCTION CODE**  
**TRAINING AND CERTIFICATION FOR CODE ADMINISTRATORS**

**FINAL-FORM REGULATION**  
**Title 34 Labor and Industry**  
**Uniform Construction Code**  
**Training and Certification Requirements for Code Administrators**  
**Chapter 401**  
**[34 Pa. Code, Part XIV, Chapter 401]**

The Department of Labor and Industry (Department), Bureau of Occupational and Industrial Safety (BOIS), by this order adopts this final-form regulation to provide detailed requirements for the training and certification of code administrators under the Pennsylvania Construction Code Act (35 P.S. §§ 7210.701 -7210.1103) (Act 45) as set forth in Annex A.

In response to comments received and meetings with affected parties, the Department made some changes to the proposed rulemaking that was published in the Pennsylvania Bulletin at 31 Pa.B. 3543.

This notice includes the Department's interpretation of the provisions of the act of November 10, 1999 (P.L. 491, No. 45) (Act 45) adopting the *1999 BOCA National Building Code, Fourteenth Edition* or its successor codes as the Uniform Construction Code (UCC).

**Statutory Authority**

This regulation is adopted under the authority provided in section 701(a) of Act 45 (35 P.S. § 7210.701(a)), which provides that the Department, in consultation with the Accessibility Advisory Board, Building Officials and Code Administrators International, Inc. (BOCA), National Conference of State Building Code Standards (NCSBCS) and other interested parties, adopt a regulation providing for a program of required training and certification for all categories of code administrators.

Section 701(e)(1) of Act 45 (35 P.S. § 7210.701(e)(1)) also requires that the Department adopt a regulation setting forth the time period in which current code administrators shall meet the training and certification requirements of Act 45. Section 701(f) of Act 45 (35 P.S. § 7210.701(f)) mandates that the Department adopt and implement a continuing education program. The Department is empowered to establish a procedure providing for the notification and hearing process for decertification for just cause under section 701(h) of Act 45 (35 P.S. § 7210.701(h)). Authority to adopt and promulgate fees for educational programs, testing and certification of code administrators is contained in section 701(j) of Act 45 (35 P.S. § 7210.701(j)). Section 701(k) of Act 45 (35 P.S. § 7210.701(k)) provides that the Department set minimum levels of liability insurance applicable to third-party agencies.

## **Background**

The purpose of Act 45 is to establish a statewide building code, the Uniform Construction Code (UCC). This provides uniform standards for builders, and greater protection for building owners and occupants, and the general public. All municipalities in the Commonwealth will utilize the UCC to assure that this Commonwealth has a uniform, modern construction code that will insure safety, health and sanitary construction, promote state-of-the art techniques and encourage cost-effectiveness. An important facet of Act 45 is "to assure that officials charged with the administration and enforcement of the technical provisions of [the] act are adequately trained and supervised." (35 P.S. § 7210.102(b)(6)). These officials will be certified in categories appropriate to the work performed. The Department will regulate these officials as code administrators and mandate continuing education.

The UCC takes effect 90 days after the publication of final form regulation by the Department adopting the required national standards for buildings and energy conservation, and setting forth the administrative provisions under the code. Under section 701 of Act 45, the Department is required to adopt a program of training and certification for code administrators. Code administrators are municipal code officials, construction code officials, third-party agencies, or the Department. Code administrators are generally responsible for plan review of construction documents, inspection of construction or administration and enforcement of codes and regulations under Act 45 or related acts.

Section 701 took effect on November 10, 1999. Since the passage of Act 45, the Department received numerous requests for guidance on training and certification from current code administrators, municipalities and third-party agencies. Municipalities, current code administrators and third-party agencies need ample time to plan and prepare for the effective date of the UCC and to complete certification. Accordingly, the Department determined it was necessary to promulgate this regulation on training and certification before the regulation establishing the UCC's administrative and enforcement provisions.

At 31 Pa.B. 3543 (July 7, 2001) the Department published the notice of proposed rulemaking, inviting all interested parties to provide written comments. As a result, the Department received comments from the following groups and individuals: Gmerek & Hayden; Joe Pirozzi; Robert E. Duncan, Pennsylvania Association of Code Officials (PACO); Michael A. Perrone, Borough of West Chester; John E. Buzard and J. Thomas Traister, Supervisors, Madison Township; Randy Souders, Director Community Develop and Code Enforcement, Upper Allen Township; William Hartz, Manager of Certification, Building Officials and Code Administrators International (BOCA); Cindy L. Davis; Middle Department Inspection Agency, Inc. (MDIA); Dingman Township Board of

Supervisors; and, Senator Mike Waugh and Senator Charlie Dent. The Department also received written comments from the Independent Regulatory Review Commission (IRRC), in a letter dated September 7, 2001 and met with analysts from IRRC.

The Department submitted a request, under the Commonwealth Documents Law (45 Pa. C.S. § 727(9)) for designation of the *International Building Code 2000* and the *International Residential Code for One- and Two-Family Dwellings* as a generally available publication approved by the Legislative Reference Bureau. The Department tendered this request on December 21, 2001.

### **Compliance with Executive Order 1996-1, Regulatory Review and Promulgation**

Since the passage of Act 45, extensive outreach and communication efforts have been undertaken to gain input from the various affected parties including representatives from the Building Officials and Code Administrators International, Inc. (BOCA), three regional Pennsylvania Chapters of BOCA, Pennsylvania Code Training Consortium (CTC), Pennsylvania Housing Research Center (PHRC), Building Codes Assistance Project (BCAP), and United States Department of Energy (DOE) and the Department of Health of the Commonwealth. Department representatives met almost weekly with interested persons to answer questions and solicit comment.

The Department attended the CTC's inaugural meeting in October 1999 and has attended its subsequent quarterly meetings. On December 16, 1999, the Department held a general stakeholders' meeting to discuss the Act 45 and identify stakeholders. On June 16, 2000, the Department posted a draft of this training and certification regulation on its web site [www.dli.state.pa.us](http://www.dli.state.pa.us) and solicited comments from stakeholders.

The Department received, reviewed and answered numerous emails and faxes from stakeholders, construction code officials, trade associations, and local governments concerning certification and other aspects of the UCC. On July 19, 2000, the Department held a second stakeholders' meeting on its draft training and certification regulation. On July 26, 2000, the Department posted some proposed changes to its draft regulation on its Internet site. On October 18, 2000, Department representatives met with members of Pennsylvania Building Officials Conference (PennBoc) at their annual conference to discuss training and certification requirements. The rulemaking was also discussed with the Department's Accessibility Advisory Board. The Department published the notice of proposed rulemaking at 31 Pa.B. 3543 (July 7, 2001). This notice contained an invitation for all interested parties to provide written comments. It also posted the proposed rulemaking on its web site.

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## **Purpose**

Act 45's purpose is to insure safe, uniform, cost-efficient, modern construction standards throughout the Commonwealth by adopting a statewide building code governing the construction, alteration, repair and new occupancy of all structures in the Commonwealth. (35 P.S. § 7210.102(b)). Officials charged with the administration and enforcement of the technical provisions of Act 45 must be adequately trained and supervised. This regulation provides a certification program, based upon consultation with BOCA, and establishes minimum continuing education requirements for code administrators for the specific work that is to be performed. It also contains procedures for decertification of code administrators for just cause. It also provides the insurance requirements for third-party agencies that may be contracted with to act as a construction code official for residential property owners, local governments and the Department. The regulation also sets the time period for current code administrators to meet the certification requirements of Act 45, and provides for the registration of current code officials until these requirements are met. The regulation sets forth fees for initial certification and registration, certification renewal, third-party agency certification and renewal and identification replacement.

## **Affected Persons**

Current and prospective code administrators including employees of the Department, municipalities, political subdivisions and third-party agencies are affected by this regulation. These persons are required to meet the certification requirements of Act 45, including the specific category testing in order to perform their duties. Code administrators will have to complete mandatory continuing education hours to renew certifications. Employers will insure that code administrators meet this chapter's requirements. Third-party agencies will have to obtain appropriate insurance coverage. The Department will have to provide staffing requirements to provide the certification and renewal of code administrators. The general public is also affected in that the use of trained and certified building code administrators to perform building inspections will increase public safety.

## **Fiscal Impact**

The Commonwealth will incur ongoing costs related to the administration of the new certification provisions. These costs will be greater at the onset of the certification program and will decrease over the course of 5 years. These administrative costs are the result of Act 45 requirements.

The Department will be required to augment its existing staff to review, process and evaluate applications for certification of code administrators. The Department, an employer of code administrators, will be required to train and certify its existing employees. Further, the Department will also incur costs in providing continuing education for its employees.

Local governments will only incur costs if they decide to administer and enforce the UCC. Local governments that conduct building code programs, and third-party agencies which hire code administrators, will incur costs associated with training, certification and continuing education of their employees. To offset these costs, local governments will be able to charge plan review and building permit fees to owners or builders. Third-party agencies will have to pay the costs to obtain appropriate insurance coverage.

### **Responses to Comments**

The following addresses the common areas of concerns found in the comments received from the public and IRRC.

Some of the definitions in section 401.1 were changed in response to a number of comments. Two commentators, Gmerek & Hayden and Joe Pirozzi, objected to the number of occupation certifications for elevator and lifting device inspection found in the proposed rulemaking at sections 401.6 and 401.7. The Department changed sections 401.6 and 401.7 by deleting the categories for *conveying system inspector*, *belt manlift inspector* and *auto lift inspector* in response. The changes to these sections also necessitated a change in the definitions found in section 401.1.

IRRC commented that the definitions for *code administrator* and *construction code official* differ from the definitions found in Act 45 and suggested that these definitions contain cross-references similar definitions in Act 45. IRRC also questioned whether the term *current code administrator* pertains to only employees of third-party agencies. The term *current code administrator* applies to any person currently performing code administration. The Department revised these terms to reflect Act 45. Upon further review of this rulemaking, the Department determined that the definitions for *code administrator*, *current code administrator* and *construction code official* did not include elevator and passenger ropeway inspectors. The Department rewrote the definitions for *code administrator* and *construction code official* to reflect and incorporate Act 45's definition. It also rewrote the definitions for *code administrator*, *current code administrator* and *construction code official* to include elevator and passenger ropeway inspectors by containing a reference to equipment in the definitions.

Four commentators, IRRC, Robert Duncan, Michael A. Perrone and Cindy L. Davis stated the Department should provide a certification category for BOCA Certified



Building Code Official (CBO). The Department addressed this concern in section 401.5(a)(3) by adding the CBO category. The changes to that section necessitated the addition of a definition for *certified building code official* in section 401.1

IRRC and MDIA, stated the definition of *third-party agency* should be added to the regulation. The Department added the definition of *third-party agency* from Act 45 as suggested by MDIA. MDIA also stated that the Department must determine when an individual who is employed by more than one municipality must be licensed as a third-party agency. The definition of *third-party agency* clearly applies to individuals as well as firms and corporations. Whether an individual is a third-party agency or a municipal employee will be determined on the basis of his contractual or employment relationship with the municipality.

Section 401.2 was changed to clarify how fees will be charged. The final regulation states that the Department will charge one fee per application, and an applicant may apply for multiple categories on a single application. The Department has also deleted the requirement for a photo identification card. The Department planned to contract with the Pennsylvania Department of Transportation for photo identification cards to make the cards readily available throughout the Commonwealth and to decrease costs. The Department subsequently learned that a separate card would have to be issued for each certification category or the cost of the cards would rise significantly. In order to reduce costs for construction code officials and the Department, the Department will issue a certification identification card without a photograph.

IRRC questioned how the Department's fees were determined under section 401.2. The Department established its fees based on the actual costs for its asbestos and lead-based paint occupation certification programs. The Department will use the same personnel and procedures for certifying construction code officials.

The Department changed section 401.3 to reflect changes made to other sections of this regulation. Section 401.3(a) was amended to allow a registered construction code official to perform plan review, inspection, and administration and enforcement of the UCC to reflect current code administrators who must register under section 401.15. Additionally, section 401.3(b) was amended to reflect certification category changes in sections 401.6 and 401.7. The term *accessibility specialist* was changed to *accessibility inspector/plans examiner* because of BOCA's revisions to its certification categories. Additionally, this section was changed to reflect the certification requirement relating to inspection and plan review of equipment such as elevators.

Section 401.4 was changed to reflect the deletion of photo identification cards. This section now refers to identification cards and not to photo identification cards.

The certification waiver provisions of section 401.5 were changed in response to comments received by the Department. Commentators, Randy Souders and MDIA objected to the certification requirements for current code administrators. Mr. Souders suggested that current code administrators receive credit for actual work experience. BOCA suggested revising the term *continued employment* in section 401.5(a)(2)(i) to *continuous employment*. IRRC and MDIA questioned whether continued employment in a related field referred to just employment as an inspector or included employment in construction or installation as well.

The Department decided that experience alone was insufficient to waive the testing requirement and will provide some waivers for testing for current code administrators in the final regulation. The Department modified section 401.5 to clarify this issue for current code administrators. The Department added the term *current code administrator* to section 401.5(a)(2)(i). This allows for waiver of the testing requirements for applicants who have passed substantially similar tests at any time as long as they can provide evidence of employment as a current code administrator or 30 hours of continuing education or a college degree program in associated fields.

MDIA also suggested that the Department modify section 401.5(a)(2)(ii) to include current certification by a national professional association of inspectors as a condition for waiver in addition to certification by a model code organization. The Department did not make this suggested change. Model code organizations have specific training, testing and continuing education requirements for certification. Professional associations generally do not have these requirements.

IRRC questioned what would constitute evidence of substantial education in associated fields under subsection 401.5(a)(2)(iii) and suggested that the Department clarify this language. The Department modified this subsection to require evidence of completion of 30 hours of continuing education or a college degree program in associated fields.

Four commentators, IRRC, PACO, Michael A. Perrone and Cindy L. Davis objected to the absence of a certification category for BOCA Certified Building Code Official (CBO). The Department added section 401.5(a)(3) to allow individuals who passed the CBO examination to waive the examination requirements for the *residential building inspector*, *building inspector* and *building plans examiner* categories.

IRRC sought information on the required application fee for waiver under section 401.5(b). The Department amended this section to cross-reference the application fee under section 401.2.

Sections 401.6 and 401.7 were changed in response to the comments received by the Department. The Department changed all the certification category references from 1

& 2 family dwellings to residential to conform to the administrative and enforcement provisions of the UCC that the Department is currently drafting. BOCA suggested the revision of the *fire prevention inspector* category to *fire inspector I* and the revision of the *accessibility specialist* to *accessibility inspector/plans examiner* because of the changes BOCA made to its certification categories. The Department made the suggested changes. However, the Department will use the designation *fire inspector* without the "I" because the Department will recognize only one certification in this category. The *certified building code official* category was also added to this section as discussed above.

Commentators, IRRC, Gmerik & Hayden and Joe Pirozzi, objected to the number of occupation certifications for elevator and lifting device inspection found in the proposed rulemaking in sections 401.6 and 401.7. The proposed rulemaking contained certification test requirements and specifications for *elevator inspector*, *belt manlift inspector*, *conveying system inspector* and *passenger ropeway inspector*. Gmerik and Hayden stated that the Department currently maintains jurisdiction over these types of devices with only one inspector category and that other jurisdictions do not require multiple licenses for lifting device inspection. In addition, Mr. Pirozzi commented that categories for elevator inspector and ski-lift/tram inspector would be adequate. In response to these comments, the Department deleted the *auto lift*, *belt manlift* and *conveying system inspector* categories.

IRRC and Robert Duncan questioned the large number of certification categories. Robert Duncan provided the example of a sole inspector in a small municipality requiring 18 certifications. Michael Perrone suggested that a person who is certified as a commercial inspector would be qualified to perform the corresponding inspections for residential structures without additional certification. The Department agrees and redrafted the certification specifications in section 401.7 to allow building, electrical, mechanical, plumbing and energy inspectors certified to perform inspections on commercial buildings to perform these same inspections on residential buildings without obtaining the equivalent residential certification. This may greatly reduce the number of required certifications.

Robert Duncan also objected to the testing requirements for the *energy inspector* classifications. PACO was concerned over the three separate tests for various energy certification categories. The proposed rulemaking required separate tests for residential, commercial and plan approval. In response to this comment, the Department redrafted the certification specifications in section 401.7 to allow building energy inspectors certified to perform inspections on commercial buildings to perform energy inspections on residential buildings without obtaining the equivalent residential energy inspector certification.

Section 401.8 was changed in response to IRRC's comments. IRRC asked how the Department would make renewal information and forms available to the public. The

Department amended section 401.8(b) to state that the Department will post renewal forms on its web site and that it will also provide the form upon request. The Department will also make the forms available through municipal and professional associations, municipalities and the Department of Community and Economic Development (DCED). IRCC also questioned the required renewal fee. The Department amended section 401.8(b) to reference the fees for renewal applications stated in section 401.2. All certification holders are responsible for monitoring the expiration date of their certification. However, the expiration date will be posted on every certification identification card.

The Department also changed section 401.8(a) to clarify that if a certification holder receives a certification in an additional category, the expiration date of the existing certification will be the date of expiration for the additional certification category. The Department made this change to avoid redundant renewals and unnecessary expenses and inconvenience to certification holders. Obtaining additional certification requires the completion of additional examinations and preparation. A certification holder still must complete required continuing education under this amendment.

BOCA recommended deleting 401.8(e)(5) which requires a training provider to state the subject matter of a course on the certificate of attendance. BOCA stated that it does not provide this information. However, section 401.9(a) requires at least 1/3 of an applicant's continuing education credits be in approved courses related to the applicant's certifications. Without having information on course subject matter, the Department would be unable to verify this requirement. Accordingly, the Department did not make this suggested change. The Department will work with BOCA so that this information is available for certification purposes.

Section 401.9 was changed in response to comments received by the Department. BOCA recommended that the Department specify the credit hours that will be awarded for a certification examination and for attendance at code change hearings. The Department revised section 401.9(b) to specify the number of credits awarded in these areas:

1. General courses: One credit hour for each 60 minutes actually spent at one course except as otherwise listed in this subsection.
2. Self-study course: One credit hour for each 60 minutes of completion time calculated by the sponsor.
3. Certification examination: Five credit hours for an examination in an additional certification category.

4. Model code organization code change hearing: One credit hour for each 60 minutes actually spent in attendance.

Section 401.10 was changed in response to IRRC's comments. IRRC asked how the Department would notify code administrators and construction code officials of approved training providers. The Department added the provision that it will make approved provider information available on its web site and that it will also provide this information upon request in subsection (b). The Department will also make this information available through DCED and CTC.

Section 401.11 was changed to clarify the process for certification renewal for third-party agencies. The Department added subsection 401.11(f) which will require a third-party agency to meet all of the following requirements for certification renewal: 1) Submission of a completed renewal form; 2) Payment of the required fee under section 401.2; 3) Submission of proof of liability insurance coverage under section 401.12; and 4) That it is not decertified under section 401.14.

MDIA objected to the type of insurance coverage required by the proposed regulation in section 401.12. MDIA agreed with the Department's adoption of a minimum of \$1 million of errors and omissions insurance as required in section 401.12(a). However, it suggested that the Department also require an additional \$1 million in general liability insurance coverage.

The Department, under section 701(k) of the Act, is requiring professional errors and omissions insurance. It determined that this requirement is more appropriate than compelling general liability insurance coverage. An errors and omissions policy covers plan review and inspection. A general liability policy covers general casualty. Requiring insurance under both policies would be an expense that is not necessary to comply with the Act 45's purpose and actual language.

The Department also amended section 401.13 based on IRRC's comment. IRRC stated that the final-form regulation should state how the public and municipalities could access the Department's list of certified code administrators. Section 401.13 was amended and will provide that the Department will maintain a list of code administrators and their certification categories on its web site and that the Department will also provide this information upon request.

The Department revised section 404.14(a)(8) to provide for reciprocal action or certification denial based upon certification actions undertaken by the proper authority in Canada in addition to state and Federal jurisdictions.

The Department amended section 401.14(c)(4) in response to IRRC's comments. IRRC commented that this subsection, requiring a presiding officer to *promptly* transmit

a proposed report in a decertification proceeding to the Secretary, is vague. It suggested the insertion of a specific time period. The Department added that the proposed report would be transmitted to the Secretary within 15 days after issuance.

IRRC questioned the requirement in section 401.14(e)(2) which states that a code administrator who has been convicted of a felony or crime related to code enforcement must demonstrate that he is *fully rehabilitated* before the Department will reinstate his certification. IRRC stated the regulation had no criteria to determine full rehabilitation and suggested the Department add criteria to the final-form regulation. The Department deleted any references to rehabilitation and replaced it with the requirement that recertification may not be detrimental to public health and safety. This should alleviate the ambiguity noted by IRRC and still provide for public protection.

IRRC and Robert Duncan questioned the time period for registration of current code administrators found in section 401.15. The proposed rulemaking allowed current code administrators engaged in plan review or inspection of residential structures to continue to perform these activities without meeting the training and certification requirements of this regulation for 3 years from the effective date of adoption the proposed rulemaking. It allowed current code administrators engaged in plan review or inspection commercial structures to continue to perform these activities without meeting the training and certification requirements of this regulation for 5 years from effective date of adoption of the proposed rulemaking. These current code administrators are required to meet the certification requirements of this regulation at the end of the 3- or 5-year period.

The Department slightly modified section 401.15 from the proposed rulemaking to, in part, reflect IRRC and Mr. Duncan's comments. This final regulation will allow current code administrators to engage in activities for residential construction for 3 years and 5 years for commercial construction. However, the time period will commence from the effective date of final rulemaking for the administrative and enforcement provisions of the UCC that the Department will submit. This should provide even more time for the training and certification of code administrators. Additionally, this effective date is more reasonable because it reflects a time period where the Uniform Construction Code will be in effect. The Uniform Construction Code also has to be in effect so that the Department may provide testing for the *building code official* and *passenger rope inspector* categories.

The Department also promulgated the training and certification regulation before the administrative and enforcement provisions of the UCC. The Department posted its draft training and certification regulation on its web site on June 16, 2000 to give municipalities and current code official notice of the anticipated requirements. The 3- and 5- year time periods, in addition to this previous posting, provide municipalities and current code officials with sufficient time to plan and train for certification. This need for

ample notification is balanced against the desire to implement a Uniform Construction Code as soon as possible and within the discretionary time that the General Assembly provided to the Department in section 701(e) of Act 45 (Residential: 3-7 years/Commercial: 5-10 years).

IRRC and Robert Duncan questioned whether current code administrators would lose registration and the ability to conduct plan review or inspections during the 3- or 5-year registration period for changing employers during that time period. A current code administrator would not lose registration for a change of employers because the registration is issued to the code administrator and not to the employer. However, the Department added section 401.15(g), which states that a current code administrator is not required to obtain a new registration for a change of employer. Subsection (h) was also added to clarify that a current code administrator may not perform accessibility reviews or inspections until the Department issues current certification.

BOCA suggested that an additional subsection be added to section 401.15 to clarify that the 5- year registration period for current code administrators does not apply to the *accessibility inspector/plans examiner* certification category. The Department considered and ultimately rejected this suggestion. Section 701(e)(2) of Act 45 (35 P.S. § 701(e)(2)) clearly provides that the Department will retain jurisdiction over the accessibility provisions of the UCC until municipal code administrators meet the requirements for certification.

Cindy L. Davis, stated that the terms *code administrator*, *construction code official*, and *building code official* appear to be used interchangeably. A *code administrator* is the category that covers all persons who perform plan review of construction documents, or administer and enforce regulations. The term includes a *municipal code official*, *construction code official*, a *third-party agency* and the Department. A *construction code official* is an individual certified by the Department in any category established under section 701(b) of Act 45 (35 P.S. §7210.701(b)). A *construction code official* will perform plan review of construction documents, inspect construction or enforce and administer codes and regulations. Separate proposed rulemaking for the administrative and enforcement provisions of the UCC will contain a specific definition for *building code official*. A *building code official* will be the construction code official that supervises, manages and enforces building enforcement activities. However, the Department reviewed this entire regulation and made changes in the terminology to insure that these terms were used consistently and clearly. Additionally, future rulemaking on the administration and enforcement portion of the Uniform Construction Code will further explain the distinctions between these terms.

Senator Mike Waugh and Senator Charlie Dent wrote to the Department to inform it of issues relating to rehabilitation of existing structures. The letter was informative. However, no change in the regulation was required.

The Dingman Township Board of Supervisors commented that there may be a serious shortage of trained and qualified construction code officials during the UCC's initial implementation period. The Board suggested that the Department take adequate steps to insure that there are an adequate number of qualified individuals in all geographic areas of the Commonwealth. The Department is aware of this potential problem and is attempting to plan for and adequately staff Department personnel to cover any need for qualified personnel.

The Department received a comment on the Board of Appeals requirement under the administrative and enforcement provisions of the UCC from the Dingman Township Board of Supervisors. This is not a matter addressed by this regulation. The Department will address this comment in its proposed rulemaking for administration and enforcement.

The Department also received a letter from the Madison Township Supervisors expressing concern over the new building code inspection requirements and stating that rural municipalities cannot afford the hiring of inspectors with all of the required certifications and that implementation of this regulation will significantly impact the township's income and bring challenges from their constituents if they opt out. However, the Department is required by Act 45 to adopt the IBC 2000 and require certification of the building code officials.

IRRC commented that the required number of certifications and related training would place a financial burden on small municipalities that maintain a qualified code administrator. IRRC suggested that the regulation specifically allow municipalities to share code administrators. However, this regulation focuses specifically on training and certification requirements. It does not address the manner in which municipalities may administer the UCC program. The Department's future rulemaking for administration and enforcement will address UCC enforcement. The Department will allow joint enforcement by municipalities and sharing of building code officials under section 501(b) of Act 45 (35 P.S. § 7210.501(b)).

### **Effective Date**

This proposed regulation takes effect 90 days after publication of the final form in the *Pennsylvania Bulletin*.

### **Regulatory Review**

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Department submitted a copy of the Notice of Proposed Rulemaking published at 31 Pa.B. 3543 to the Independent Regulatory Review Commission and to the Chairpersons



of the Senate Committee on Labor and Industry and the House Labor Relations Committee for review and comment on June 26, 2001. The Department also provided the Committees and IRRC with copies of all comments received as well as other documentation in accordance with section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)).

In preparing this final-form regulation, the Department considered all comments from IRRC, stakeholders and the public. The Department did not receive comments from the Senate or House Committees.

This final-form regulation was deemed approved by the House and Senate Committees on \_\_\_\_\_. IRRC met on \_\_\_\_\_, and approved this regulation in accordance with sections 5.1(d) and (e) of the Regulatory Review Act (71 P.S. § 745.5a(d) and (e)).

### **Contact Person**

The contact person is Charles J. Sludden, Director of the Bureau of Occupational and Industrial Safety, Department of Labor and Industry, Room 1613, Labor & Industry Bldg., 7<sup>th</sup> and Forster Streets, Harrisburg, Pennsylvania, 17120, csludden@state.pa.us.

### **Findings**

The Department finds that:

(1) Public notice of intention to promulgate administrative regulation amended by this order has been given under section 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the related regulation at 1 Pa. Code §§ 7.1 and 7.2.

(2) The final-form regulation adopted by this order is necessary and appropriate for the administration of Act 45.

### **Order**

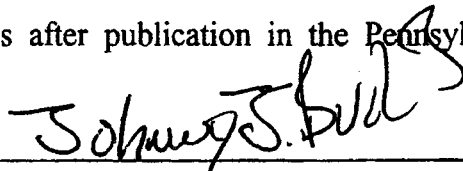
The Department, acting under the authorizing statutes, orders that:

(a) The regulations of the Department 34 Pa. Code, Chapter 401, PART XIV, is adopted to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(c) The Secretary of the Department shall certify this order and annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect 90 days after publication in the Pennsylvania Bulletin.

  
\_\_\_\_\_  
JOHNNY J. BUTLER  
Secretary

**FISCAL NOTE**

**Annex A**

**TITLE 34. LABOR AND INDUSTRY**

**PART XIV. UNIFORM CONSTRUCTION CODE**

**CHAPTER 401. UNIFORM CONSTRUCTION CODE TRAINING  
AND CERTIFICATION OF CODE ADMINISTRATORS**

Sec.

- 401.1 Definitions.
- 401.2 Fees.
- 401.3 Certification required.
- 401.4 Application and identification.
- 401.5 Waivers.
- 401.6 Certification categories and testing.
- 401.7 Certification category specifications.
- 401.8 Certification renewal.
- 401.9 Continuing education.
- 401.10 Department-approved providers.
- 401.11 Certification of third-party agency.
- 401.12 Liability insurance.
- 401.13 List of code administrators.
- 401.14 Decertification or refusal to certify.
- 401.15 Registration of current code administrators.
- 401.16 Change of address or employer.

**§ 401.1 Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Accredited academic institution*--A high school, technical or vocational school, private school licensed or registered with the Department of Education, junior college, community college or university.

*Act*--The Pennsylvania Construction Code Act (35 P. S. §§ 7210.101--7210.1103).

*ALI*--The Automatic Lift Institute, P. O. Box 33116, Indialantic, Florida, 32903-3116.

*ASME*--The American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016-5990.

~~—Auto lift—A lifting device specifically designed to raise and stably support an automobile vehicle free of the ground by engaging structural elements of the vehicle such as wheels, body and frame members, axle housings, and wheel suspension components described in and governed by ALI standards adopted by the Department in this chapter under the Uniform Construction Code.~~

~~—Belt manlift—A conveyance device which consists of a power driven endless belt that moves in one direction only and is provided with steps or platforms and handholds for the transportation of personnel from floor to floor as described in and governed by ASME standards adopted by the Department in this chapter under the Uniform Construction Code.~~

**CERTIFIED BUILDING OFFICIAL-** A CLASSIFICATION ADMINISTERED BY THE INTERNATIONAL CODE COUNCIL OR ITS PREDECESSOR ORGANIZATION.

**Code administrator--**A municipal code official, CONSTRUCTION CODE OFFICIAL or third-party agency certified with the Department under the act or the Department UNDER SECTION 103 OF THE ACT (35 P.S. § 7210.103). The term includes an individual certified in a category established under this chapter to perform plan review of construction documents or administer and enforce codes and regulations IN SUCH CATEGORY UNDER THE ACT OR RELATED ACTS.

**Construction code official-** An individual certified by the Department in an appropriate category established under section 701(b) of the act (35 P. S. § 7210.701(b)) to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations IN SUCH CATEGORY UNDER THE ACT OR RELATED RELATED ACTS UNDER SECTION 103 OF THE ACT (35 P.S. § 7210.103).

~~—Conveyor—A horizontal, inclined or vertical device for moving or transporting bulk material, packages or objects in a path predetermined by the design of the device and having points of loading and discharge, fixed or selected, and related equipment and devices described in and governed by ASME standards adopted by the Department in this chapter under the Uniform Construction Code.~~

**Current code administrator--**An individual who performed plan review of construction documents, inspections of one-family or two-family residential property or other buildings, and structures AND EQUIPMENT or administered and enforced a construction code program, and who was employed by or under contract with the Commonwealth or a municipality prior to \_\_\_\_ *Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking THE FINAL-FORM REGULATION FOR THE UNIFORM CONSTRUCTION CODE.*). The term includes an individual who performed these duties as an employee, contractor or agent of a person employed by or under contract with the Commonwealth or a municipality of this Commonwealth prior to \_\_\_\_ *Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking. THE FINAL-FORM REGULATION FOR THE UNIFORM CONSTRUCTION CODE.*).

**Department--**The Department of Labor and Industry of the Commonwealth.

*Elevator*--Hoisting and lowering devices governed by ASME standards adopted by the Department under the Uniform Construction Code and other lifting devices subject to the requirements of the Uniform Construction Code.

*Passenger ropeway*--An aerial tramway, aerial lift, surface lift, tow, conveyor, or other lifting device which carries, pulls or pushes passengers along a level or inclined path by means of a haul rope or other flexible element which is driven by a power unit remaining essentially at a single location.

*Secretary*--The Secretary of the Department.

**THIRD-PARTY AGENCY-** A PERSON, FIRM OR CORPORATION CERTIFIED BY THE DEPARTMENT AS A CONSTRUCTION CODE OFFICIAL AND CONTRACTED TO PERFORM PLAN REVIEW OF CONSTRUCTION DOCUMENTS, INSPECT CONSTRUCTION OR ADMINISTER AND ENFORCE CODES AND REGULATIONS UNDER THE ACT.

*Uniform Construction Code*--The *International Building Code First Edition 2000*, the *International Residential Code for One- and Two- Family Dwellings 2000* available from BOCA International, 4051 W. Flossmoore Rd., Country Club Hills, IL 60478-5795, 1 (800) 214-4324 4231; and any standards adopted by the Department in this chapter under section 301 of the act (35 P. S. § 7210.301).

## **§ 401.2. DEPARTMENT Fees.**

(a) The following fees apply ~~in this part~~ TO THE CERTIFICATION OF CODE OFFICIALS. THE DEPARTMENT WILL CHARGE ONE FEE PER CERTIFICATION APPLICATION. AN INDIVIDUAL MAY APPLY FOR CERTIFICATION FOR MULTIPLE CATEGORIES ON A SINGLE APPLICATION FORM. ALL FEES ARE NONREFUNDABLE:

- |   |       |
|---|-------|
| (1) Initial certification and registration.           | \$50  |
| (2) Certification renewal.                            | \$50  |
| (3) Third-party agency certification and renewal.     | \$250 |
| (4) <del>Photo</del> Identification CARD replacement. | \$10  |

~~(b) The Department will charge one fee per application. An applicant may apply for certification for multiple categories on a single application form. All fees are nonrefundable.~~

## **§ 401.3. Certification required.**

- (a) A person may not perform a plan review of construction documents, inspect

construction OR EQUIPMENT, or administer and enforce the Uniform Construction Code without being currently certified OR REGISTERED by the Department in the category applicable to the work that is to be performed.

(b) A person may not approve plans or perform inspections relating to accessibility requirements without being certified by the Department as an accessibility specialist INSPECTOR/PLANS EXAMINER.

#### **§ 401.4. Application and identification.**

(a) An applicant for certification shall submit a Department-provided application, pay the required fee and submit verification of meeting the requirements of this chapter and passing all of the certification examinations for a specific certification category listed in § 401.5 (relating to waivers) by \_\_\_\_ (*Editor's Note: The blank refers to a date 6 years prior to the effective date of adoption of this proposed rulemaking FINAL- FORM REGULATION.*).

(b) The Department will issue a AN photo identification card to an applicant who meets the certification requirements.

(c) A certification holder shall notify the Department in writing if the photo identification card is lost or destroyed. The Department will charge a required fee for issuance of a new photo identification card.

(d) Certification and certification renewal will not be valid until the Department receives the required fee.

(e) The period of certification shall be 3 years from the issuance date OF A CERTIFICATION UNDER § 401.8(A) (RELATING TO CERTIFICATION RENEWAL).

(f) The Department may refuse to issue certification for just cause in accordance with § 401.14 (relating to decertification or refusal). The Department will provide written notification of the reasons for the refusal to issue certification.

#### **§ 401.5. Waivers.**

(a) The Department may grant a request for waiver of the testing requirements of § 401.6 (relating to certification categories and testing) if the applicant meets any of the following criteria:

(1) Passed a test substantially similar to the testing categories listed in § 401.6 within \_\_\_\_ (*Editor's Note: The blank refers to a date 6 years prior to effective date of adoption of this proposed rulemaking-FINAL- FORM REGULATION.*).

(2) Passed a test substantially similar to the testing categories listed in § 401.6 before \_\_\_\_ (*Editor's Note: The blank refers to a date 6 years prior to effective date of adoption of this proposed rulemaking-FINAL- FORM REGULATION.*) so long as the applicant

submits any of the following to the Department:

(i) Evidence of continued employment AS A CODE ADMINISTRATOR in the related field.

(ii) Current certification issued by a model code organization.

(iii) Evidence of ~~substantial~~ COMPLETION OF 30 HOURS OF CONTINUING education OR A COLLEGE DEGREE PROGRAM in associated fields.

(3) PASSED A CERTIFIED BUILDING OFFICIAL EXAMINATION. AN APPLICANT WHO PASSED THE EXAMINATION MAY BE ELIGIBLE TO RECEIVE CERTIFICATION IN THE FOLLOWING CATEGORIES:

(i) RESIDENTIAL BUILDING INSPECTOR.

(ii) BUILDING INSPECTOR.

(iii) BUILDING PLANS EXAMINER.

(b) An applicant for waiver shall complete a Department-provided application form and pay the required ~~application~~ INITIAL CERTIFICATION fee UNDER § 401.2 (RELATING TO DEPARTMENT FEES). If the Department approves the waiver, the applicant shall comply with § 401.4 (relating to application and identification).

**§ 401.6. Certification categories and testing.**

The Department will issue a certification for specific category to an applicant who receives a passing grade in all of the examinations required for that category. The Department will accept the following category examinations OR SUCCESSOR EXAMINATIONS administered by the Department, the National Certification Program for Construction Code Inspectors, Assessment Services, Incorporated, the National Association of Elevator Safety Authorities or other Nationally-recognized testing program approved by the Department. THE DEPARTMENT SHALL LIST THE APPROVED PROVIDERS ON ITS INTERNET WEB SITE.

CERTIFICATION CATEGORIES	EXAMINATION NUMBER and NAME
<del>1 &amp; 2 Family dwellings</del> RESIDENTIAL building inspector	1A Building 1 & 2 family dwelling
<del>1 &amp; 2 Family dwellings</del> RESIDENTIAL electrical inspector	2A Electrical 1 & 2 family dwelling
<del>1 &amp; 2 Family dwellings</del> RESIDENTIAL mechanical inspector	4A Mechanical 1 & 2 family dwelling
<del>1 &amp; 2 Family dwellings</del> RESIDENTIAL plumbing	5A Plumbing 1 & 2 family dwelling

inspector	
<del>1 &amp; 2 Family dwellings- RESIDENTIAL energy inspector</del>	E1 Residential energy plan review & inspection
Building inspector	1B Building general 3B Fire protection general
Fire prevention inspector	F1 Fire prevention inspection general I
Electrical inspector	2B Electrical general
Mechanical inspector	4B Mechanical general
Plumbing inspector	5B Plumbing general
Energy inspector	E2 Commercial energy inspection
<del>Accessibility specialist- INSPECTOR/PLAN EXAMINER</del>	<del>Building codes accessibility specialist A1 ACCESSIBILITY INSPECTOR/ PLAN EXAMINER</del>
Building plans examiner	1B Building general 1C Building plan review 3B Fire protection general 3C Fire protection plan review
Electrical plans examiner	2B Electrical general 2C Electrical plan review
Mechanical plans examiner	4B Mechanical general 4C Mechanical plan review
Plumbing plans examiner	5B Plumbing general 5C Plumbing plan review
Energy plans examiner	E3 Commercial energy plan review
Building code official (code administrator)	Department-administered test on State law and application
Elevator inspector	Qualified elevator inspector test or its equivalent
<del>Conveying systems inspector</del>	<del>Department administered test on ASME B 20.1- standard</del>
<del>Belt manlift inspector</del>	<del>Department administered test on ASME B 90.1- standard</del>
<del>Auto lift inspector</del>	<del>Department administered test on ALI ALCTV 98- standard</del>
Passenger ropeway inspector	DEPARTMENT ADMINISTERED TEST ON ANSI B77.1-1999 edition

#### § 401.7. Certification category specifications.

(A) An individual certified by the Department in the following categories may perform the duties described in the specific category as a construction code official:

- (1) ~~One and two family dwellings~~ RESIDENTIAL building inspector.



(i) Inspects one-family and two-family dwellings and jurisdictional accessory structures to ensure that these structures are free from hazardous structural conditions and comply with the Uniform Construction Code.

(ii) Duties include inspection of footings and foundations, concrete slabs, wood decay and termite protection, floor and ceiling framing, wall framing, roof framing, masonry walls, sheathing, roof covering, interior and exterior wall coverings, means of egress system and safety glazing.

(2) ~~One and two family dwellings~~ RESIDENTIAL electrical inspector.

(i) Inspects one-family and two-family dwellings and jurisdictional accessory structures to ensure that these structures are free from hazardous electrical installations and comply with the Uniform Construction Code.

(ii) Duties include determining compliance of electrical service, electrical distribution systems, wiring methods, panel boards, control devices, conductors and electrical fixture installation.

(3) ~~One and two family dwellings~~ RESIDENTIAL mechanical inspector.

(i) Inspects one-family and two-family dwellings and jurisdictional accessory structures to ensure that these structures are free from hazardous mechanical installations and comply with the Uniform Construction Code.

(ii) Duties include determining compliance of mechanical equipment, gas fuel supply systems, venting of appliances, air ducts, combustion air and comfort cooling.

(4) ~~One and two family dwellings~~ RESIDENTIAL plumbing inspector.

(i) Inspects one-family and two-family dwellings and jurisdictional accessory structures to ensure that these structures are free from hazardous plumbing installations and comply with the Uniform Construction Code.

(ii) Duties include determining compliance of water service, building sewer, water distribution, drainage, waste and vents and fixtures.

(5) ~~One and two family dwellings~~ RESIDENTIAL energy inspector.

(i) Inspects one-family and two-family dwellings and jurisdictional accessory structures to ensure that energy installations are made in the manner specified in the Uniform Construction Code.

(ii) Duties include determining compliance of conditioned or unconditioned spaces, R-values for roof/ceiling, floor and wall assemblies and insulation placement, installation of materials for the building envelope and its components, moisture control methods such as caulking, sealing and weather-stripping, duct and dipping insulation and sealing criteria, thermostats for each heating and cooling system, electrical metering, lighting

installation and controls and piping insulation, circulation pump controls, heat traps, shower heads and pool cover installations.

(6) *Building inspector.*

(i) Ensures that buildings and structures are constructed in accordance with the Uniform Construction Code.

(ii) Duties include inspection of construction site and building location, footings and foundations, wood and steel framing and connections, masonry construction, pre-cast and cast-in-place concrete, exterior weather boarding, fire-stopping and draft-stopping, building components related to life safety and fire protection systems and building components related to size, installation and workmanship.

(iii) MAY PERFORM RESIDENTIAL INSPECTOR DUTIES LISTED IN SUBSECTION (A)(1).

(7) *Electrical inspector.*

(i) Ensures that electrical installations are made in accordance with the Uniform Construction Code regardless of the size or components used in the installation.

(ii) Duties include determining compliance of raceways (installations, size), cables, panel boards and boxes, conductors, control devices, motors and generators, electrical equipment and special occupancies.

(iii) MAY PERFORM RESIDENTIAL ELECTRICAL INSPECTOR DUTIES LISTED IN SUBSECTION (A)(2).

(8) *Mechanical inspector.*

(i) Ensures that mechanical installations are made in the manner specified in the Uniform Construction Code.

(ii) Duties include determining compliance of fuel piping systems, heating, cooling and ventilation, fuel-fired equipment venting, steam and hot water heating systems and piping and energy conservation.

(iii) MAY PERFORM RESIDENTIAL MECHANICAL INSPECTOR DUTIES LISTED IN SUBSECTION (A)(3).

(9) *Plumbing inspector.*

(i) Ensures that plumbing installations are made in accordance with the Uniform Construction Code.

(ii) Duties include determining compliance of underground piping installation, rough-in inspections, drain-waste-venting (DWV) systems, pressure testing, water distribution

systems, observation and elimination of cross connections, system pumps, tanks and pressure vessels and fixtures, traps and valves and their connections.

(iii) MAY PERFORM RESIDENTIAL PLUMBING INSPECTOR DUTIES LISTED IN SUBSECTION (A)(4).

(10) *Energy inspector.*

(i) Ensures that the building envelope, mechanical systems, electrical power and lighting systems and building service systems and equipment comply with the approved construction documents and the Uniform Construction Code.

(ii) Duties include verifying that building envelope and components meet minimum requirements for installation of materials and that building envelope penetrations are caulked, sealed and weather-stripped, determining compliance of moisture control methods, installation of and types of mechanical equipment and efficiencies, heating, ventilation and air conditioning (HVAC) equipment, ducts and piping, insulation and sealing, lighting installation and lighting controls for building interiors and exteriors, permanently wired poly-phase motors and their efficiencies, piping insulation, circulation pump controls, heat traps, point-of-use controls and pool cover installations.

(iii) MAY PERFORM RESIDENTIAL ENERGY INSPECTOR DUTIES LISTED IN SUBSECTION (A)(5).

(11) *Accessibility specialist INSPECTOR/PLANS EXAMINER.*

(i) Ensures that buildings and structures are constructed in accordance with the accessibility provisions of the Uniform Construction Code and that construction documents submitted as part of a permit application comply with the accessibility provisions of the Uniform Construction Code.

(ii) Duties include inspection of building sites and all interior building components to verify compliance with the accessibility standards or review of construction documents to verify that the design of building sites and all interior components comply with the accessibility standards.

(12) *Building plans examiner.*

(i) Determines that the construction documents submitted as part of a permit application comply with the Uniform Construction Code.

(ii) Duties include determining the degree of compliance necessary for new construction projects, alterations or repairs, proper use group/type of construction classification, determining height and area requirements, minimum means of egress requirements, minimum light and ventilation requirements, minimum design structural loads, adequacy of soils investigations, adequacy of footing and foundation designs, minimum fire-resistance requirements, adequacy of barrier-free designs, minimum energy conservation requirements and adequacy of fire-protection systems.

(13) *Fire prevention inspector.*

(i) Conducts basic fire prevention inspections and has a general knowledge of applicable codes and standards.

(ii) Duties include field inspections, preparation of correspondence and inspection reports, handling complaints, and maintaining files related to inspections that were conducted.

(14) *Electrical plans examiner.*

(i) Determines that the construction documents submitted as part of a permit application comply with the Uniform Construction Code.

(ii) Duties include determining proper number of services, proper location of services, adequacy of emergency systems, proper service size, proper over-current protection, special use applications and proper conductor size and application.

(15) *Mechanical plans examiner.*

(i) Determines that the construction documents submitted as part of a permit application comply with the Uniform Construction Code.

(ii) Duties include determining compliance of fuel piping systems, fuel-burning appliances, mechanical refrigeration systems, incinerators, energy conservation equipment and controls, boilers and pressure vessels, venting systems, hydronic and steam-piping systems and ventilation air systems.

(16) *Plumbing plans examiner.*

(i) Determines that the construction documents submitted as part of a permit application comply with the Uniform Construction Code.

(ii) Duties include determining that water service, building sewer/storm sewer and other underground piping are properly sized and located, determining that proper drainage fixture units, fixture locations and clearances are used, determining the adequacy of drain-waste-venting (DWV) riser diagrams and water distribution systems and determining the proper number of fixtures and proper materials as proposed.

(17) *Energy plans examiner.*

(i) Ensures that the design criteria specified for a building are correct and in accordance with the Uniform Construction Code and that alterations, additions and change of use or occupancy are in compliance with the Uniform Construction Code.

(ii) Duties include determining compliance of the design conditions specified, conditioned or unconditioned spaces, R values for roof/ceiling, floor and wall assemblies and insulation placement, insulation of materials for the building envelope and its

components, moisture control methods such as caulking, sealing and weather-stripping, duct and dipping insulation and sealing criteria, thermostats for each heating and cooling system, electrical metering, lighting installation and controls, piping insulation, circulation pump controls, heat raps, shower heads and pool cover installations.

(18) *Building code official.*

(i) Manages, supervises and administers building code enforcement activities. The Department, municipality or a third-party agency that operates an enforcement program under the act will employ at least one person certified or registered as a building code official.

(ii) Duties include management of building code enforcement activities, supervision of building inspectors or plans examiners, issuing building permits, occupancy permits, notice of violations and orders to vacate, and initiation of prosecutions.

(19) *Elevator inspector.*

(i) Inspects electric and hydraulic elevators, CONVEYING SYSTEMS and other lifting devices to ensure that these installations are free from conditions that would present a life safety or fire hazard to persons using the installations.

(ii) Duties include determining compliance with the Uniform Construction Code regarding door closers, interlocks, car safeties, over-speed governors, safety tests, reshackling ropes, fireman's recall, brakes and other related elevator equipment and the investigation of accidents.

~~(20) *Conveying systems inspector.*~~

~~(i) Inspects conveying systems to insure that installations are free from conditions that would present a life safety or fire hazard to a person using these installations.~~

~~(ii) Duties include determining compliance of backstops and brakes, overload protection, gates and switches, counterweights, guards and guarding, headroom, and controls and operation.~~

~~(21) *Belt manlift inspector.*~~

~~(i) Inspects belt manlifts to insure that installations are free from conditions that would present a life safety or fire hazard to a person using these installations.~~

~~(ii) Duties include determining compliance of floor openings, riding clearance, landings, hood on underside of floor openings, protection of entrances and exits, bottom arrangements, top arrangements, emergency exit ladders, superstructure bracing, illumination, weather protection, brakes, belts, pulleys, speed, platforms or steps, handholds, safety stops, start/stop control ropes, factors of safety, instruction and warning signs, operating rules, and conducting tests and inspections.~~

~~(22) Auto lift inspector.~~

~~(i) Inspects auto lifts to insure that installations are free from conditions that would present a life safety or fire hazard to persons using these installations.~~

~~(ii) Duties also include determining compliance for quality assurance and documentation, determining construction compliance for the specific requirements for: welding; runways, ramps, chocks and runway stops; adapters; vehicle positioning; non-rotating device; air-oil tanks; low-oil control; swing arms; balconies; travel limits; load-holding device; out-of-level condition; multiple electric powered posts; mobile above-ground lifts; surfaces; inspection of damage; electrical safety; stability of wheel-engaging mobile lifts; fastening devices; lubrication; accessory equipment; machine guarding/color-coding; and other safety considerations.~~

~~(23)~~(20) *Passenger ropeway inspector.*

(i) Inspects passenger ropeways to ensure that the installation is free from conditions that would present a life safety or fire hazard to a person using the installation.

(ii) Duties include investigation of accidents and determining compliances of power units, auxiliary power units, carriers, cabins, cars, location, vertical and horizontal clearances, haul rope sleeves, guides, haul rope condition and splice, structures and foundations, capacity, speed, acceleration/deceleration, loading and unloading areas, required stopping devices, brakes and rollback devices, tension systems, manual and automatic control devices, haul rope grips, operation and maintenance of equipment, electrical components, emergency shut down circuits, bypass circuits, speed regulating devices, and other related ropeway equipment with the Uniform Construction Code.

**§ 401.8. Certification renewal.**

(a) A certification holder shall renew a certification every 3 years from date of issuance to continue to act as a code administrator. IF A CERTIFICATION HOLDER RECEIVES CERTIFICATION IN AN ADDITIONAL CATEGORY, THE EXPIRATION DATE OF ALL HIS CERTIFICATIONS SHALL BE THE DATE OF EXPIRATION OF THE CERTIFICATION THAT WAS LAST ISSUED TO THE CERTIFICATION HOLDER.

(b) To renew a certification, an applicant shall submit a completed Department-provided renewal form, acceptable proof of completion of continuing education and the required certification fee UNDER § 401.2 (RELATING TO DEPARTMENT FEES). THE DEPARTMENT WILL POST THIS FORM ON ITS INTERNET WEB SITE AND PROVIDE IT UPON REQUEST.

(c) An applicant for renewal shall obtain identification in accordance with § 401.4 (relating to application and identification).

(d) The Department will not renew a certification that is expired for more than 1 year unless the applicant submits a certification application under § 401.4 and passes the

required examinations under § 401.6 (relating to certification categories and testing).

(e) An applicant for certification renewal shall submit proof of completion of each continuing education course. The proof of completion shall be completed by the course provider and contain the following information:

- (1) The name and address of the training provider.
- (2) The dates attended.
- (3) The credit hours claimed.
- (4) The title of the course.
- (5) The subject matter of the course.

(f) The Department will not renew the certification of a person who was decertified in accordance with § 401.14 (relating to decertification or refusal) ~~for~~ DURING the period that the Department ordered the decertification

#### **§ 401.9. Continuing education.**

(a) Prior to certification renewal, an applicant shall complete 15 credit hours of continuing education in courses relating to the professional competency of code administrators. An applicant with multiple certification areas shall complete 15 credit hours of continuing education for each category after the issuance of the certification or most recent renewal of certification. The applicant is not required to complete more than 45 credit hours for renewal. At least 1/3 of the applicant's continuing education requirement shall be in approved courses relating to applicant's certification categories.

~~(b) The Department will approve credit of 1 hour for each 60 minutes actually spent in attendance at one course. A self-study course will receive credit hours of 1 hour for each 60 minutes of completion time calculated by the sponsor. The Department may modify credit hours for a self-study course to comply with this section~~ AS FOLLOWS:

(1) ONE CREDIT HOUR FOR EACH 60 MINUTES ACTUALLY SPENT AT ONE COURSE EXCEPT AS OTHERWISE LISTED IN THIS SUBSECTION.

(2) ONE CREDIT HOUR FOR EACH 60-MINUTES OF COMPLETION TIME FOR A SELF-STUDY COURSE CALCULATED BY THE SPONSOR. THE DEPARTMENT MAY MODIFY CREDIT HOURS FOR A SELF-STUDY COURSE TO COMPLY WITH THIS SECTION.

(3) FIVE CREDIT HOURS FOR SUCCESSFUL COMPLETION OF AN EXAMINATION FOR AN ADDITIONAL CERTIFICATION CATEGORY UNDER SUBSECTION (C)(5).

(4) ONE CREDIT HOUR FOR EACH 60 MINUTES ACTUALLY SPENT IN

ATTENDANCE AT A MODEL CODE ORGANIZATION CODE CHANGE HEARING UNDER SUBSECTION (C)(6).

(c) The Department approves the following as acceptable courses of study for continuing education credits:

- (1) Attendance at a seminar or technical presentation by an approved provider.
- (2) Completion of a self-study course offered by an approved provider.
- (3) Completion of a classroom course offered by an accredited academic institution.
- (4) Instruction at a continuing education seminar or technical presentation for an approved provider.
- (5) Successful completion of an examination ~~for new~~ AN ADDITIONAL certification category listed in § 401.6 (relating to certification categories and testing)
- (6) Attendance at a model code organization code change hearing.

**§ 401.10. Department-approved providers.**

(a) The following providers are approved to offer instruction for continuing education credit hours:

- (1) The National Conference of States on Building Codes and Standards.
- (2) A Federal, Commonwealth or state agency.
- (3) An accredited academic institution.
- (4) A model code organization or its accredited local chapter.
- (5) A trade association representing design professionals or the construction industry.
- (6) A National standards writing organization.
- (7) An association serving or representing Commonwealth municipalities.
- (8) APPROVED TESTING PROVIDERS UNDER § 401.6 (RELATING TO CERTIFICATION CATEGORIES AND TESTING) FOR CREDIT HOURS UNDER § 401.9(C)(5) (RELATING TO CONTINUING EDUCATION).

(b) The Department will approve additional providers who demonstrate the competency to provide approved continuing education programs. An applicant for approval as a provider shall submit a completed Department-provided application and appropriate documentation that it meets the requirements of § 401.9 (relating to continuing education). THE DEPARTMENT WILL POST A LIST OF APPROVED



PROVIDERS ON ITS INTERNET WEB SITE AND PROVIDE THE LIST UPON REQUEST.

(c) The Department may revoke approval of any provider that does not comply with § 401.9 or this section. Actions will be taken subject to the right of notice, hearing and adjudication in accordance with 2Pa.C.S. (relating to administrative law and procedure).

**§ 401.11. Certification of third-party agency.**

(a) Current certification as a third-party agency is required to act as a construction code official, perform plan review of construction documents, inspect construction or administer and enforce codes and regulations in accordance with the act under contract with a person, firm, corporation or the Commonwealth.

(b) An applicant for certification as a third-party agency shall submit a completed Department-provided application to the Department and pay the required fee.

(c) An applicant for certification as a third-party agency shall submit documentation that its employees or agents who act as construction code officials and perform plan review of construction documents, inspect construction or administer or enforce codes and regulations under the act are currently registered or certified in the specific categories applicable to the work performed.

(d) An applicant for certification under this section shall submit acceptable documentation of insurance coverage required under § 401.12 (relating to liability insurance).

(e) A third-party agency shall provide written notification to the Department within 60 days of the hiring or change of employment status of an employee or agent who acts as a construction code official and performs plan review of construction documents, inspects construction or administers or enforces codes and regulations under the act.

(F) A CERTIFICATION SHALL EXPIRE 3 YEARS AFTER DATE OF ISSUANCE. THE DEPARTMENT WILL RENEW A THIRD-PARTY AGENCY CERTIFICATION WHEN THE APPLICANT MEETS ALL OF THE FOLLOWING:

(1) SUBMITS A COMPLETED DEPARTMENT-PROVIDED RENEWAL FORM.

(2) PAYS THE REQUIRED FEE UNDER § 401.2 (RELATING TO DEPARTMENT FEES).

(3) SUBMITS PROOF OF LIABILITY INSURANCE COVERAGE UNDER §401.12 (RELATING TO LIABILITY INSURANCE).

(4) THE APPLICANT IS NOT DECERTIFIED UNDER § 401.14 (RELATING TO DECERTIFICATION).

**§ 401.12. Liability insurance.**

(a) A third-party agency shall carry errors and omissions liability insurance in at least the amount of \$1 million for each person and each occurrence to satisfy claims or judgments for property damage or personal injury, or both.

(b) As a condition for obtaining and renewing certification, a third-party agency shall submit to the Department satisfactory evidence that it has obtained errors and omissions liability insurance as required by this section. A certification or renewal will not be issued unless the third-party agency provides proof of insurance which shall consist of a certificate of insurance or copy of the declaration page from the insurance policy setting forth the effective date, expiration date and policy coverage in the amounts required.

(c) A third-party agency shall notify the Department immediately of the cancellation of its errors and omissions liability insurance, the failure or refusal to renew its errors and omissions liability insurance, change of insurance carrier, change of policy dates or changes of coverage amounts. Upon notice of loss or cancellation of insurance coverage, the Department will immediately initiate action to decertify the third party agency under § 401.14 (relating to decertification or refusal to certify).

#### **§ 401.13. List of code administrators.**

The Department will maintain a list of code administrators indicating their categories of certifications ON ITS INTERNET WEB SITE. ~~The list will be available to municipalities and the public.~~ THE DEPARTMENT WILL ALSO MAKE THE LIST AVAILABLE TO MUNICIPALITIES AND, UPON REQUEST, THE PUBLIC.

#### **§ 401.14. Decertification or refusal to certify.**

(a) *Decertification or refusal to certify.* The Department may initiate action against a code administrator or refuse to issue certification for just cause. Just cause includes the following:

- (1) Failure to remedy an error or omission specified in a formal warning or to comply with an order issued by the Department under this section.
- (2) Fraud or deceit or making untrue representations in obtaining a certification.
- (3) Failure to remit the required certification fee.
- (4) Violation of the act or this chapter.
- (5) Incompetence or gross negligence.
- (6) Acting in a manner presenting a danger to the public health and safety.
- (7) Pleading guilty, entering a plea of nolo contendere, being found guilty, receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition to a felony or any crime relating to the business of code administrator in the

courts of this Commonwealth, a Federal court or a court of any other state, territory or insular possession of the United States.

(8) Having a certification or any authorization to engage in the business of code administrator revoked or suspended or having other disciplinary action taken, or an application for certification or authorization to engage in the business of code administrator refused or denied by the proper authority of another state or Federal district, territory or insular possession of the United States~~or~~, the Federal government OR CANADA.

(9) Failing to complete continuing education requirements of the act or engaging in deceit or misrepresentation in the reporting of continuing education requirements.

(10) Engaging in fraud, deceit or an act of moral turpitude while acting as code administrator.

(11) Failing to enforce the act or Uniform Construction Code.

(12) Knowingly aiding and abetting a person engaging in code administrator activity who is not currently certified or registered.

(13) Being a third-party agency that does not comply with § 401.12 (relating to liability insurance).

(14) Engaging in the activities of a code administrator or advertising as a code administrator without a current certification required for the work performed, or registration issued by the Department.

(b) *Notice and hearing.* Actions of the Department relating to decertification under this section will be taken subject to the right of notice, hearing and adjudication in accordance with 2 Pa.C.S. (relating to administrative law and procedure) Decertification proceedings shall be conducted under 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

(c) *Procedure for decertification*

(1) The Department will serve the code administrator with an order to show cause under 1 Pa. Code § 35.14 (relating to orders to show cause). The order to show cause shall contain notification that the certification may be subject to action and the grounds for the action. The order to show cause shall contain notification that the code administrator is to respond in writing within 30 days after the date of service of the order. The Department will also serve a copy of the order to show cause upon the supervising official in the municipality where the alleged incidents occurred and upon the code administrator's current employer.

(2) The code administrator may respond in writing to the allegations in the order to show cause in accordance with 1 Pa. Code § 35.37 (relating to answers to orders to show cause). If made, the answer shall be filed with the Department within 30 days after the

date of service of the order to show cause.

(3) At the request of the code administrator, the Department will hold a hearing on the matter. The Secretary will designate a presiding officer to conduct the hearing and to issue a proposed report under 1 Pa. Code §§ 35.201--35.207 (relating to proposed reports generally).

(4) The presiding officer shall have the power to conduct hearings under 1 Pa. Code §§ 35.185--35.190 (relating to presiding officers). The presiding officer shall issue a proposed report that shall be served upon counsel of record or to the parties in the hearing. The presiding officer shall promptly transmit the proposed report and the certified record to the Secretary WITHIN 15-DAYS AFTER ISSUANCE OF THE PROPOSED REPORT.

(5) A participant desiring to appeal to the Secretary shall, within 30 days after the service of a copy of the proposed report, file exceptions to the proposed report under 1 Pa. Code § 35.211 (relating to procedure to except to proposed report). A response may be filed within 20 days to the exceptions.

(6) The Secretary or a designee will issue a final order under 1 Pa. Code § 35.226 (relating to final orders).

(d) *Types of corrective action.* When the Department is authorized to take action against a code administrator, the Department may:

(1) Administer a formal warning.

(2) Require the code administrator to take remedial educational courses.

(3) Decertify the code administrator for a period set by the Department. The Department will order the code administrator to surrender his certificate after decertification

(4) Deny the application for certification.

(e) *Conditions for reinstatement.* Unless ordered to do so by a court of competent jurisdiction, the Department will not reinstate certification to a person who was decertified until the following conditions are met:

(1) The full period of decertification ordered by the Department has elapsed.

~~(2) If the code administrator was convicted of a felony or a crime related in any way to code enforcement, the code administrator shall demonstrate that he is fully rehabilitated and that recertification would not be detrimental to the public health and safety.~~

(3)(2) The person has complied with conditions imposed by the Department's order of decertification AND RECERTIFICATION WOULD NOT BE DETRIMENTAL TO THE PUBLIC HEALTH AND SAFETY.

(4) (3) The person complies with § 401.4 (relating to application and identification).

(f) Subsection (c) supplements 1 Pa. Code §§ 35.14, 35.37, 35.201--35.207, 35.185--35.190, 35.211, and 35.226.

### § 401.15. Registration of current code administrators.

(a) A current code administrator engaged in plan review or inspection of one-family or two-family residential property may continue to engage in these activities without meeting the training and certification requirements of this chapter until \_\_\_\_ *Editor's Note: The blank refers to a date that is 3 years from effective date of adoption of ~~the proposed rulemaking-~~ FINAL-FORM REGULATION FOR THE UNIFORM CONSTRUCTION CODE*. To engage in plan review or inspection of one-family or two-family dwelling units after \_\_\_\_ *Editor's Note: The blank refers to a date that is 3 years from effective date of adoption of ~~this proposed rulemaking-~~ THE FINAL-FORM REGULATION FOR THE UNIFORM CONSTRUCTION CODE.*, a current code administrator shall meet the certification and training requirements of this chapter.

(b) A current code administrator engaged in plan review or inspection of other buildings and structures that are not one-family or two-family residential structures may continue to engage in these activities without meeting the training and certification requirements of this chapter until \_\_\_\_ *Editor's Note: The blank refers to a date that is 5 years from effective date of adoption of ~~this proposed rulemaking-~~ THE FINAL-FORM REGULATION FOR THE UNIFORM CONSTRUCTION CODE.* To engage in plan review and inspection of other buildings and structures after \_\_\_\_ *Editor's Note: The blank refers to a date that is 5 years from effective date of adoption of ~~this proposed rulemaking-~~ THE FINAL-FORM REGULATION FOR THE UNIFORM CONSTRUCTION CODE.* a current code administrator shall meet the training and certification requirements of this chapter.

(c) A current code administrator shall register with the Department by submitting a completed Department-provided form and furnishing required documentation. Documentation is to consist of an affidavit completed by the employer responsible for oversight of the current code administrator's activities and an affidavit completed by the current code administrator containing a description of the current code administrator's duties, employment and length of employment.

(d) The Department will issue a ~~photo~~ AN identification card to a current code administrator who meets the requirements of this section, completes a Department-provided form and pays the required fee UNDER § 401.2 (RELATING TO DEPARTMENT FEES).

(e) The ~~photo~~ identification card will expire as registration on the date that the current code administrator must meet the training and certification requirements of this chapter.

(f) A current code administrator shall notify the Department in writing if the ~~photo~~ identification card is lost or destroyed. The Department will charge a required fee for issuance of a new ~~photo~~ identification card UNDER § 401.2.

(G) A CURRENT CODE ADMINISTRATOR IS NOT REQUIRED TO OBTAIN A NEW REGISTRATION FOR A CHANGE OF EMPLOYER.

(H) A CURRENT CODE ADMINISTRATOR MAY NOT APPROVE PLANS OR PERFORM INSPECTIONS RELATING TO ACCESSIBILITY REQUIREMENTS WITHOUT BEING CURRENTLY CERTIFIED BY THE DEPARTMENT AS AN ACCESSIBILITY INSPECTOR/PLANS EXAMINER.

**§ 401.16. Change of address or employer.**

A certification or registration holder shall notify the Department of any change of mailing address or employer within 30 days.

12-57 1/17/02

Uniform Construction Code-Training and Certification for Code Administrators  
34 Pa.Code, Chapter 401, Part XIV  
Regulation No. 12-57

List of Commentators

Richard J. Gmerek  
Gmerk & Hayden, P.C.  
212 Locust Street, Suite 600  
Harrisburg, PA 17101-1527  
For PM Associates

Joe Pirozzi  
[neispa@fast.net](mailto:neispa@fast.net)

Michael A. Perrone, Director  
Building, Housing & Code Enforcement  
Borough of West Chester  
Westchester, PA 19380

Robert E. Duncan, President  
Pennsylvania Association of Code Officials

Randy Souders, Vice President Pennboc, Region 5  
Director of Community Development and Code Enforcement  
Upper Allen Township, PA  
[Souders99rs@aol.com](mailto:Souders99rs@aol.com)

William Hartz, Manager  
Certification and Professional Development Services  
BOCA International  
4051 West Flossmoor Road  
Country Club Hills, IL 60478-5795

Cindy L. Davis, Building Official  
[cdavic@ohara.pa.us](mailto:cdavic@ohara.pa.us)

Peter A. Conlow  
Middle Department Inspection Agency, Inc.  
P.O. Box 2654  
West Chester, PA 19380-0904

**List of Commentators, No 12-57**

**Page 2**

Dingman Township Board of Supervisors  
118 Fisher Lane  
Milford, PA 18337

Senators Mike Waugh and Charlie Dent  
The State Capitol  
Senate Box 203028  
Harrisburg, PA 17120-8028

Madison Township Board of Supervisors  
1183 Madison Shop Road  
Rimersburg, PA 16248

Robert E. Nyce, Executive Director  
Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> floor  
Harrisburg, PA 17101





COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF LABOR AND INDUSTRY  
HARRISBURG, PENNSYLVANIA 17120

THE SECRETARY

February 7, 2002

The Honorable John R. McGinley  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harristown 2  
333 Market Street  
Harrisburg, PA 17120

Re: Final-Form Regulation  
Labor & Industry-Training and  
Certification, No. 12-57

Dear Chairman McGinley:

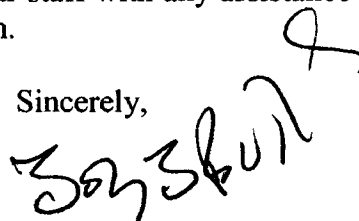
Enclosed is a final-form regulation that will provide training and certification requirements for all categories of code administrators in accordance with the Pennsylvania Construction Code Act (Act 45). As required, the Department of Labor and Industry prepared a regulation relating to the training and certification requirements of code administrators, specifying continuing education requirements, mandating professional liability insurance for third-party agencies, determining "just cause" for decertification, relating to waivers, providing for "current code administrators" and establishing fees.

This regulation amends the *Pennsylvania Code* (34 Pa. Code, Chapter 401) to implement the provisions of Chapter 7 of Act 45 (35 P.S. § 7210.701). Proposed rulemaking for this regulation was published in the *Pennsylvania Bulletin* on July 7, 2001.

Written comments, suggestions or questions should be directed to Charles J. Sludden, Director, Bureau of Occupational and Industrial Safety, Department of Labor and Industry, 1613 Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA 17120 (Telephone: 717-783-3323; Fax: 717-787-8363; E-mail: [csludden@state.pa.us](mailto:csludden@state.pa.us)).

The Department's staff will provide your staff with any assistance required to facilitate a thorough review of this regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Johnny J. Butler". The signature is written in a cursive, somewhat stylized font. There is a small flourish or mark above the signature.

Johnny J. Butler  
Secretary

JJB/JAH/ems

Enclosures

cc: Roger H. Caffier, Chief Counsel  
Charles J. Sludden, Jr., Director, Bureau of Occupational and Industrial  
Safety  
James A. Holzman, Deputy Chief Counsel  
Karen L. Galli, Assistant Counsel

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 12-57  
SUBJECT: Uniform Construction Code - Training and Certification for Code Administrators  
AGENCY: DEPARTMENT OF LABOR & INDUSTRY

**TYPE OF REGULATION**

Proposed Regulation  
X Final Regulation  
Final Regulation with Notice of Proposed Rulemaking Omitted  
120-day Emergency Certification of the Attorney General  
120-day Emergency Certification of the Governor  
Delivery of Tolled Regulation  
a. With Revisions                      b. Without Revisions

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
2/7/02	<i>Michelle Warren</i>	HOUSE COMMITTEE ON LABOR RELATIONS
2/7/02	<i>William Zumbach</i>	
2/7/02	<i>Judy Merrell</i>	SENATE COMMITTEE ON LABOR & INDUSTRY
2/7/02	<i>Paul Scott</i>	
2/7/02	<i>E. Ryan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL
_____	_____	LEGISLATIVE REFERENCE BUREAU

January 30, 2002