



01 JUL 2001 10:08

**Department of Building, Housing & Codes Enforcement**  
*Regulations for the Protection of Public Health, Safety and Welfare*

July 10, 2001

ORIGINAL: 2202

Charles J. Sludden, Jr.  
Pennsylvania Department of Labor and Industry  
1613 Labor & Industry Building  
7th & Foster Streets  
Harrisburg, PA 17120

**RE: Training & Certification Rules**

Dear Chuck:

After a review of the proposed training and certification rules, I have noticed that the Certified Building Official (C.B.O.) has been omitted. As you are aware, I have previously written and spoken with members of the Department to explain this certification category and its national acceptance. The C.B.O. certification is used in many states across the United States of America. For years, this has been the highest credential an inspector could obtain until the master code official designation was introduced.

I understand that the Department has had trouble fitting the C.B.O. in to any one of the new categories so I would like to propose the following:

C.B.O. = 1 and 2 Family Dwelling Building  
1B Building General  
1C Building Plan Review  
3B Fire Protection General  
3C Fire Protection Plan Review

As you are aware, the C.B.O. technical module test is based on all of the construction codes with a major emphasis on the above equivalent test.

The outline and details of the C.B.O. test has been submitted previously and I assume your office has that material. If any additional information is required, please feel free to contact my office.

Respectfully

Michael A. Perrone, C.B.O.  
*Director - Building, Housing & Code Enforcement*

MAP/dcd

ORIGINAL: 2202  
212 Locust Street, Suite 600  
Harrisburg, Pa 17101-1527



tel. 717/234-8525 . fax 717/234-8812  
e-mail rjg@ghgovlaw.com

G H E R E A H A Y D E N

01 AUG 14 2001 3:42

August 10, 2001

Charles Sludden  
Director of Bureau of Occupational and Industrial Safety  
Department of Labor and Industry  
Room 1613 Labor & Industry Bldg.  
7th and Forster Streets  
Harrisburg, PA 17120

RECEIVED  
2001 AUG 14 PM 1:17  
LABORATORY  
REVIEW COMMISSION

Dear Mr. Sludden:

On behalf of our client, P.M. Associates, we are writing to file these comments to **"Section 401.6. Certification Categories and Testing"** of the Department's proposed regulations regarding the Uniform Construction Code Training and Certification for Code Administrators as published in 31 Pa.B. 3543. While late filed, we respectfully request the Department to consider these important comments and suggestions.

The regulations propose to license several different categories of inspectors (elevator inspectors, conveying systems inspectors, belt manlift inspectors and passenger ropeway inspectors). While we understand the Department's concerns regarding safety and liability issues related to these devices, we respectfully request that you reconsider the need for several different classifications of inspectors. We do not believe they are needed, especially since the Commonwealth currently maintains jurisdiction for the inspection of those types of devices.

Currently, no other jurisdiction in the country requires multiple licenses for different types of lifting devices. If one maintains QEI (Qualified Elevator Inspector) status, then one is certified to inspect all lifting devices covered by ASME A17.1. This information may be confirmed by contacting Bud Rommel at NAESA in Phoenix, Arizona @1-800-746-2372. NAESA is the organization that issues the QEI certifications. There are a few types of devices, such as ski lifts, not covered by A17.1 that would require a separate license, but the State does not allow private companies to inspect those devices. So, if a separate license is to be required for non-A17.1 devices, then we would have no problems with that.

Page Two  
August 10, 2001

As such, we appreciate the opportunity to comment and if you have any questions, please let us know. Thank you.

Sincerely,

GMERK & HAYDEN, P.C.

A handwritten signature in black ink, appearing to read 'R. Gmerk', with a long horizontal flourish extending to the right.

RICHARD J. GMERK

:slt

cc: Brian Abela, Executive Assistant

RECEIVED

2001 AUG 14 PM 1:17

UNIVERSITY OF PENNSYLVANIA  
REGULATORY  
REVIEW COMMISSION

April 9, 2001

John J. Butler, Secretary  
Department of Labor & Industry  
L & I Building, Room 1713  
7<sup>th</sup> & Forster Street  
Harrisburg, PA. 17120

Dear Mr. Butler,

I am writing on behalf of the Pennsylvania Association of Code Officials (PACO) to provide you with comments on the latest draft of the Uniform Construction Code Training & Certification of Code Administrators regulations.

Members of our Association include Code Officials, Contractors, Architects and Third Party Inspectors from Southeastern Pennsylvania. We have approximately 140 members and represent approximately 120 Municipalities. We are an approved local chapter of BOCA and the ICC. PACO is also a BOCA accredited education provider.

On March 29, 2001 our members met to discuss the proposed Uniform Construction Code Training & Certification program standards. Our membership raised a number of questions and recommendations that require further consideration. These questions/recommendations are listed below.

1. There are 18 different certifications that must be obtained. A small community that has only one inspector will be required to pass up to 18 certification tests to continue performing inspections in their current position. If he/she is able to accomplish these certifications it will cost the Municipality over \$ 2000 without considering the cost of training to obtain the knowledge necessary to pass these tests.

Is there any funding being provided by the Commonwealth to cover some of the costs of testing, training or certification fees? Is there any training being provided under the proposed program?

Our recommendation to reduce the number of required certifications is to permit individuals that have obtained the plumbing, electrical, mechanical and energy inspector certifications to perform 1 & 2 family residential inspections without being

required to obtain a separate certification. If these individuals have passed the general inspector test, they have the knowledge to inspect all types of buildings.

2. We have a concern over the testing requirement for the International Energy Code. Three separate tests are required under your proposal. These tests are based on the International Energy Code. Under Act 45, Section 301(c) the Department shall by regulation "promulgate prescriptive methods to implement the energy-related standards of the Uniform Construction Code". It would seem to make more sense and be less cumbersome if you developed one test based on your prescriptive method to qualify the inspector for certification in this area of the code. It makes no sense to us to require testing on a code and methodology that we will not be enforcing in the field.
3. The standards recognize many existing BOCA certifications but they do not recognize the Certified Building Official Certification (CBO). The test for this certification includes three different modules including questions on the management of a Building Regulation Department, knowledge of the legal terms and laws affecting our profession, knowledge of the code requirements for residential and commercial plan review and residential and commercial building inspection requirements. It is our recommendation that the CBO certification include the One & Two Family Dwelling Building Inspector, Building Inspector and Building Plans Examiner certifications listed in your certification standards.
4. The proposed draft establishes a three-year time period for residential certifications and five years for commercial certifications. When you consider the construction activity that has occurred recently, this is not much time to obtain all of the required certifications, especially the certifications that have multiple modules. It also does not give the various training providers in Pennsylvania much time to set up the training programs necessary to educate the inspectors sufficiently to pass these exams. We recommend that you extend these deadlines for Current Code Administrators (as this term is defined in your most recent draft) to five and eight years respectively. If this time period is too long, we recommend that you require a certain number of modules be completed every two years to document that Current Code Administrators are making a good faith attempt to meet their certification obligations. This would be a fair program and provide more time to establish an appropriate training program.
5. A question was raised about Current Code Administrators leaving one municipality to work for another Municipality. If a Current Code Administrator resigns from one Municipality and proceeds to work for a new municipality in Pennsylvania, will he/she be required to meet the certification requirements for new inspectors or will the current code administrator status move with him/her to the new position?

Our membership recommended that the current code administrator status be issued to the individual. This status should remain with the individual regardless of their place of employment.

**The Board of Directors and members of PACO look forward to working with you to resolve these issues as well as any other issues that may be raised prior to the final draft of these regulations. If you have any questions please contact me or one of our Board members. Our contact information can be obtained on our web site at [www.paco-71.org](http://www.paco-71.org).**

**Thank you for providing us with the opportunity to offer our comments.**

**Sincerely,**

**Robert E. Duncan, President  
Pennsylvania Association of Code Officials**



600 N. Twelfth Street • Lemoyne, Pennsylvania 17043  
717-730-4380 • 800-692-7339 • 717-730-4396 (Fax) • Internet—www.pahomes.org

**President**  
Toni J. Rogan  
Lackawanna HBA

**Vice President**  
Charles A. Farrell  
BA of Central Pennsylvania

**Associate Vice President**  
N. Eugene Minnick  
Central Susquehanna BA  
W. Branch Susquehanna BA

**Treasurer**  
Roger B. Zimmer  
HBA of Metro Harrisburg

**Secretary**  
Scott H. Cannon  
HBA of Chester/Delaware Cos.

**Executive Vice President**  
David F. Sheppard Jr., CAE

August 6, 2001

Mr. Charles J. Sludden  
Pennsylvania Department of Labor & Industry  
Room 1613, Labor & Industry Building  
7<sup>th</sup> and Forester Streets  
Harrisburg, PA 17120

RECEIVED  
2001 AUG 20 AM 8:53  
INDUSTRIAL RELATIONS COMMISSION

Dear Mr. Sludden:

The Pennsylvania Builders Association (PBA) has reviewed the draft regulations proposed as 34 PA. CODE CH. 401, "Uniform Construction Code Training and Certification for Code Administrators" by the Department of Labor & Industry (L&I) in the July 7, 2001 *Pennsylvania Bulletin*. We offer the following comments for your consideration.

1. PBA strongly supports the regulations as proposed and looks forward to their publication as a final rulemaking.
2. PBA also specifically supports that the proposed regulations mirror the certification categories established by BOCA. PBA would urge that, following their publication as a final rulemaking, the regulations be updated in the future as necessary to ensure the continued parallel relationship between the BOCA and L&I programs.

Sincerely,

Mark Maurer, AICP  
Assistant Director of Governmental Affairs

cc: Senator Gibson E. Armstrong  
Senator Christine M. Tartaglione  
Representative Robert J. Flick  
Representative Robert E. Belfanti  
Mr. Robert Nyce, Executive Director, IRRC



August 6, 2001

Charles J. Sludden, Jr.  
Pennsylvania Department of Labor and Industry  
1613 Labor & Industry Building  
7<sup>th</sup> & Foster Streets  
Harrisburg, PA 17120

Dear Mr. Sludden:

This is a follow-up letter to my letter dated July 10, 2001 in reference to the proposed training and certification regulation of the Uniform Construction Code.

It appears to me that any inspector who passes or is qualified as a commercial inspector/plan reviewer should be more than qualified to do the same discipline for residential structures. I believe it goes without saying that the technical issues for nonresidential buildings are extremely more detailed than residential buildings.

Hopefully you can agree with this common sense approach to certification.

If you have any questions regarding this matter, please do not hesitate to contact my office.

Respectfully,

Michael A. Perrone, C.B.O.  
*Director - Building, Housing & Code Enforcement*  
MAP/dcd

cc: John Bolson

RECEIVED  
2001 AUG -9 AM 10:22  
INDEPENDENT LABORATORY  
REVIEW COMMISSION



600 N. Twelfth Street, Lemoyne, PA 17043  
Phone: (717) 730-4380 Fax: (717) 730-4396



August 6, 2001

Mr. Charles J. Sludden  
Pennsylvania Department of Labor & Industry  
Room 1613, Labor & Industry Building  
7<sup>th</sup> and Forester Streets  
Harrisburg, PA 17120

Dear Mr. Sludden:

The Pennsylvania Builders Association (PBA) has reviewed the draft regulations proposed as 34 PA. CODE CH. 401, "Uniform Construction Code Training and Certification for Code Administrators" by the Department of Labor & Industry (L&I) in the July 7, 2001 *Pennsylvania Bulletin*. We offer the following comments for your consideration.

1. PBA strongly supports the regulations as proposed and looks forward to their publication as a final rulemaking.
2. PBA also specifically supports that the proposed regulations mirror the certification categories established by BOCA. PBA would urge that, following their publication as a final rulemaking, the regulations be updated in the future as necessary to ensure the continued parallel relationship between the BOCA and L&I programs.

Sincerely,

A handwritten signature in black ink that reads 'Mark Maurer'.

Mark Maurer, AICP  
Assistant Director of Governmental Affairs

cc: Senator Gibson E. Armstrong  
Senator Christine M. Tartaglione  
Representative Robert J. Flick  
Representative Robert E. Belfanti  
Mr. Robert Nyce, Executive Director, IRRC

RECEIVED  
2001 AUG -9 AM 10:21  
DEPARTMENT OF LABOR & INDUSTRY  
REVIEW COMMISSION



01 AUG -1 11:03

**Department of Building, Housing & Codes Enforcement**  
*Regulations for the Protection of Public Health, Safety and Welfare*

August 6, 2001

Charles J. Sludden, Jr.  
Pennsylvania Department of Labor and Industry  
1613 Labor & Industry Building  
7th & Foster Streets  
Harrisburg, PA 17120

Dear Mr. Sludden:

This is a follow-up letter to my letter dated July 10, 2001 in reference to the proposed training and certification regulation of the Uniform Construction Code.

It appears to me that any inspector who passes or is qualified as a commercial inspector/plan reviewer should be more than qualified to do the same discipline for residential structures. I believe it goes without saying that the technical issues for nonresidential buildings are extremely more detailed than residential buildings.

Hopefully you can agree with this common sense approach to certification.

If you have any questions regarding this matter, please do not hesitate to contact my office.

Respectfully,

Michael A. Perrone, C.B.O.  
*Director - Building, Housing & Code Enforcement*  
MAP/led

cc: John Bolson

ORIGINAL: 2202

RECEIVED



2001 AUG -8 AM 8:52

PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS  
INDEPENDENT REGULATORY REVIEW COMMISSION

August 3, 2001

Mr. Robert E. Nyce, Director  
IRRC  
333 Market Street, 14th Floor  
Harrisburg, PA 17101

Dear Mr. Nyce:

We are writing to comment on Regulation #12-57, IRRC file #2202, the Department of Labor and Industry's Proposed Rulemaking on the Training and Certification Regulations of Code Administrators for the Uniform Construction Code. We are concerned over the separation of duties into many different categories with what we feel are too many tests. We feel that small, one-man operations would be overwhelmed by the sheer number of tests they would need to take simply to administer and enforce the residential portions of Act 45 of 1999.

According to the proposed regulations, if a municipality decided to only administer and enforce the code for 1 & 2 Family dwellings, the code official, which would likely be a one-man operation, would first have to take the five required 1 & 2 Family dwelling tests to become a certified 1 & 2 Family dwellings inspector. According to the certification category specifications in 401.7, in order to approve plans, issue permits, notice of violations, etc, this individual would also have to become certified as a building code official and possibly even a building plans examiner. We feel that these additional tests are unnecessary and will lead to the availability of far fewer fully certified inspectors.

Also, we do not entirely understand the purpose of the certification category "building code official." If municipalities administer and enforce the International Building Code 2000, why would L&I require that each municipality administering the code have an individual certified as a "building code official" as required in Section 401.7(18)? Does L&I envision that in municipal offices the duties will be separated to the same extent as described in these regulations? For example, the plans examiner would review the plans, the building code official would issue the permit, and the inspector would perform the inspection. This is an unnecessary separation of duties and totally ludicrous! We feel that if someone has taken the five tests to become a 1 & 2 family dwellings inspector, the individual should not need to take additional tests in order to review plans or become certified as a "building code official."

3001 Gettysburg Road  
Camp Hill, PA 17011-7296  
Telephone: (717) 763-0930  
Fax: (717) 763-9732  
Internet: [www.psats.org](http://www.psats.org)

Mr. Robert E. Nyce, Director  
August 3, 2001  
Page 2

Also, the definitions for building code official, code administrator, construction code official, and current code administrator are similar but substantially different. Why are there so many definitions for essentially the same thing? This is confusing. Plus, "municipal code official," a term in Act 45, is not referenced. Also, why are these definitions different from those in the act and why are the definitions in the act not used?

**Building code official:** *(Section 401.1 – this term is not in Act 45)* "A construction code official appointed by the Department or a municipality who supervises, manages, or enforces the Uniform Construction Code."

**Municipal code official:** *(Act 45)* "An individual employed by a municipality or more than one municipality and certified by the Department of Labor and Industry under this act to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations under this act or related acts."

These terms are substantially different. Municipalities that choose to implement the act are likely to use a municipal code official to perform all of the above duties, but it is possible that there will be a lack of qualified individuals under the bill's requirements.

**Code administrator:** *(Section 401.1)* "A municipal code official or a third-party agency certified with the Department under the act or the Department. The term includes an individual certified by the Department in a category established under this chapter to perform plan review of construction documents or administer and enforce codes and regulations."

**Code administrator:** *(Act 45)* "A municipal code official, a construction code official, a third party agency or the Department of Labor and Industry."

Whether the code administrator is a municipal code official, third party agency or the department (employee), they all must be certified, not just the municipal code official and the third party agency. Also, is it "certified with" or "certified by" the department?

**Construction code official:** *(Section 401.1)* "An individual certified by the Department in an appropriate category established under section 701(b) of the act to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations."

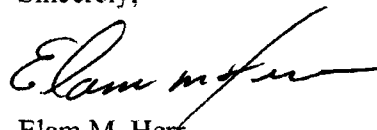
**Construction code official:** *(Act 45)* "An individual certified by the Department of Labor and Industry in an appropriate category established pursuant to section 701(b) of this act to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations in such code category under this act or related acts."

Mr. Robert E. Nyce, Director  
August 3, 2001  
Page 3

We foresee the potential for serious problems if there are an inadequate number of certified experienced inspectors, particularly in the vast rural areas of the state, at the time of implementation of the Act 45. Reliance on the marketplace to fill the positions created by the state-mandated demand will take a great deal of time.

Thank you for consideration of our comments on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Elam M. Herr", written in a cursive style.

Elam M. Herr,  
Assistant Executive Director,  
Legislative Affairs and Policy Development

EMH:ls

ORIGINAL: 2202



PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

August 3, 2001

Mr. Robert E. Nyce, Director  
IRRC  
333 Market Street, 14th Floor  
Harrisburg, PA 17101

Dear Mr. Nyce:

We are writing to comment on Regulation #12-57, IRRC file #2202, the Department of Labor and Industry's Proposed Rulemaking on the Training and Certification Regulations of Code Administrators for the Uniform Construction Code. We are concerned over the separation of duties into many different categories with what we feel are too many tests. We feel that small, one-man operations would be overwhelmed by the sheer number of tests they would need to take simply to administer and enforce the residential portions of Act 45 of 1999.

According to the proposed regulations, if a municipality decided to only administer and enforce the code for 1 & 2 Family dwellings, the code official, which would likely be a one-man operation, would first have to take the five required 1 & 2 Family dwelling tests to become a certified 1 & 2 Family dwellings inspector. According to the certification category specifications in 401.7, in order to approve plans, issue permits, notice of violations, etc, this individual would also have to become certified as a building code official and possibly even a building plans examiner. We feel that these additional tests are unnecessary and will lead to the availability of far fewer fully certified inspectors.

Also, we do not entirely understand the purpose of the certification category "building code official." If municipalities administer and enforce the International Building Code 2000, why would L&I require that each municipality administering the code have an individual certified as a "building code official" as required in Section 401.7(18)? Does L&I envision that in municipal offices the duties will be separated to the same extent as described in these regulations? For example, the plans examiner would review the plans, the building code official would issue the permit, and the inspector would perform the inspection. This is an unnecessary separation of duties and totally ludicrous! We feel that if someone has taken the five tests to become a 1 & 2 family dwellings inspector, the individual should not need to take additional tests in order to review plans or become certified as a "building code official."

3001 Gettysburg Road  
Camp Hill, PA 17011-7296  
Telephone: (717) 763-0930  
Fax: (717) 763-9732  
Internet: www.psats.org

RECEIVED  
AUG 03 2001  
COMMUNICATIONS SECTION

## PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

Mr. Robert E. Nyce, Director  
August 3, 2001  
Page 2

Also, the definitions for building code official, code administrator, construction code official, and current code administrator are similar but substantially different. Why are there so many definitions for essentially the same thing? This is confusing. Plus, "municipal code official," a term in Act 45, is not referenced. Also, why are these definitions different from those in the act and why are the definitions in the act not used?

**Building code official:** *(Section 401.1 – this term is not in Act 45)* "A construction code official appointed by the Department or a municipality who supervises, manages, or enforces the Uniform Construction Code."

**Municipal code official:** *(Act 45)* "An individual employed by a municipality or more than one municipality and certified by the Department of Labor and Industry under this act to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations under this act or related acts."

These terms are substantially different. Municipalities that choose to implement the act are likely to use a municipal code official to perform all of the above duties, but it is possible that there will be a lack of qualified individuals under the bill's requirements.

**Code administrator:** *(Section 401.1)* "A municipal code official or a third-party agency certified with the Department under the act or the Department. The term includes an individual certified by the Department in a category established under this chapter to perform plan review of construction documents or administer and enforce codes and regulations."

**Code administrator:** *(Act 45)* "A municipal code official, a construction code official, a third party agency or the Department of Labor and Industry."

Whether the code administrator is a municipal code official, third party agency or the department (*employee*), they all must be certified, not just the municipal code official and the third party agency. Also, is it "certified with" or "certified by" the department?

**Construction code official:** *(Section 401.1)* "An individual certified by the Department in an appropriate category established under section 701(b) of the act to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations."

**Construction code official:** *(Act 45)* "An individual certified by the Department of Labor and Industry in an appropriate category established pursuant to section 701(b) of this act to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations in such code category under this act or related acts."

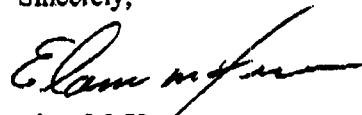
PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP SUPERVISORS

Mr. Robert E. Nyce, Director  
August 3, 2001  
Page 3

We foresee the potential for serious problems if there are an inadequate number of certified experienced inspectors, particularly in the vast rural areas of the state, at the time of implementation of the Act 45. Reliance on the marketplace to fill the positions created by the state-mandated demand will take a great deal of time.

Thank you for consideration of our comments on this important issue.

Sincerely,



Elam M. Herr,  
Assistant Executive Director,  
Legislative Affairs and Policy Development

EMH:ls



Pennsylvania State Association of Township Supervisors  
3001 Gettysburg Road; Camp Hill, PA 17011  
(717) 763-0930  
(717) 763-9732 (FAX)

# Fax

To:	Robert E. Nyce, Director	From:	Elam M. Herr
Fax:	717-783-2664	Pages:	4
Phone:	717-783-5506	Date:	08/03/01
Re:	Comments on Regulation #12-57, IRRC file #2202	CC:	

 Urgent For Review Please Reply As Requested

Confidentiality Notice: The information in this transmission is intended only for the individual or entity named above. It may be legally privileged and confidential. If the reader of this message is not the intended recipient, any disclosure, dissemination, distribution or copying of this communication or its contents is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone. Thank you.

● Comments:

ORIGINAL: 2202

1183 Madison Shop Road  
Rimersburg, PA 16248  
John E. Buzard - Ronald D. Custer  
J. Thomas Traister  
(814) 473 - 6307  
FAX (814) 473 - 6307  
madisontwp@usachoice.net

August 3, 2001

PA Dept. of Labor & Industry  
Attn: Charles J. Sludden  
Director, Bureau of Occupational & Industrial Safety  
Rm 1613, 7<sup>th</sup> and Forster Streets  
Harrisburg, PA 17120

Dear Mr. Sludden:

As Township Supervisors in a rural community, we have serious concerns with the working draft released by the Department of Labor and Industry of Act 45 of 1999, the statewide building code.

It is our understanding that townships have the option of administering and enforcing the proposed building code or of opting out and delegating that responsibility to Labor and Industry. However, we have just learned that if a township opts out, they can no longer issue building permits. This would impact financially, reducing income; but also removes the current mechanism for adding new or remodeled structures to the tax rolls.

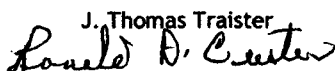
The new inspection requirements would appear to drastically increase the cost of building as well as adding the additional costs for the professional services of a certified inspector. Small rural communities cannot cost justify hiring an inspector with all the required certifications. It would seem our only option would be to contract with a larger inspection service.

From our perspective, this is a no win situation. Anyway that you look at it, new construction or any enhancement to old structures is going to be much more expensive, no doubt, reducing growth. The inspection fees alone on a \$100,000.00 residential structure are estimated to be an additional minimum of \$680.00. This is a significant fee. If we opt out, we will be challenged because our taxpayers will assume we didn't want to do "our jobs"; and now they have to pay more money. If we opt to participate, our taxpayers will accuse us of gouging the taxpayers who want to build or remodel. We cannot afford to recreate a new system of recording to monitor additions to our tax rolls.

We realize that it was a noble purpose that prompted this new legislation, but as it stands now, we feel it will be detrimental to township operations and service to its constituents, your constituents.

Sincerely,

  
John E. Buzard

J. Thomas Traister  
  
Ronald D. Custer



# BUILDING OFFICIALS AND CODE ADMINISTRATORS INTERNATIONAL

4051 West Flossmoor Road • Country Club Hills, IL 60478-5795 • (708) 799-2300 • Fax: (708) 799-4981

July 31, 2001

Page 2

## **401.9 (b) Continuing education**

Specify the credit hours that will be awarded for an examination (5) and for attendance at code change hearings (6).

## **401.10 (c) Department-approved providers**

Change "that does not comply with 401.9 or this section" to "The Department may revoke approval of any provider for just cause." The performance quality of providers may be an issue and cause for non-approval. Section 401.9 simply lists the requirements for continuing education and how hours are counted.

## **401.15 (b) Registration of current code administrators**

This section allows current code administrators a period of 5 years to attain certification. This does not apply to Accessibility Inspectors/Plan Examiners by Act 45.

Add:

To be able to enforce the accessibility provisions of the Uniform Construction Code, an inspector/plans examiner must be certified as an Accessibility Inspector/Plans Examiner. The 5 year period described in (b) above does not apply to Accessibility Inspector/Plans Examiner.

One final comment that is not part of these regulations. When you begin issuing certifications, I would recommend that you establish four expiration dates per year. For example, all certificates issued in January-March, 2002 would have an expiration of March 31, 2005. April-June, 2002 certificates would expire June 30, 2005. This will allow you to group renewal notices. When you issue an individual additional certifications, use the same expiration date. This will allow you to send an individual one renewal notice every three years instead of several. It will also save the individual time, money and continuing education requirements.

Thank you for the opportunity to comment on the Regulations.

Sincerely,

William Hartz

Manager, Certification

Professional Development Services

## **Regional Offices**

1245 Sunbury Road, Suite 100 • Westerville, OH 43081-9444 • (614) 890-1064 • Fax: (614) 890-9712  
10830 East 45th Street, Suite 200 • Tulsa, OK 74146-3809 • (918) 664-4434 • Fax: (918) 664-4435  
One Neshaminy Interplex, Suite 201 • Trevoze, PA 19053-6931 • (215) 638-0554 • Fax: (215) 638-4438  
19 West British American Boulevard • Latham, NY 12110-1450 • (518) 782-1708 • Fax: (518) 783-0889

**Serving Government and Industry Since 1915**

e-mail: [member@bocai.org](mailto:member@bocai.org) • <http://www.bocai.org>



# BUILDING OFFICIALS AND CODE ADMINISTRATORS INTERNATIONAL

4051 West Flossmoor Road • Country Club Hills, IL 60478-5795 • (708) 799-2300 • Fax: (708) 799-4981

ORIGINAL: 2202

2001-07-31 14:21

## OFFICERS

**President**  
**Rodney A. Blane, C.B.O.**  
Director of Building & Zoning  
Rolling Meadows, Illinois

**Vice President**  
**James T. Ryan, C.B.O.**  
Codes Administrator  
Overland Park, Kansas

**Secretary/Treasurer**  
**Steven I. Shapiro, C.B.O.**  
Director of Codes Compliance  
Hampton, Virginia

**Immediate Past President**  
**Paul E. Myers, C.B.O.**  
Assistant Director, Department of  
Buildings and Inspections  
Cincinnati, Ohio

## BOARD OF DIRECTORS

**Kenneth W. Andrews, C.B.O.**  
Code Enforcement Officer  
Town of Hooksett, New Hampshire

**Edwin M. Berkel, C.F.I.**  
Fire Marshal  
Mehlville Fire Protection District  
St. Louis, Missouri

**Ronald A. Brendel, P.E.**  
Senior Plan Reviewer/  
Code Development Specialist  
St. Louis, Missouri

**William R. Bryant, M.C.O.**  
Code Enforcement Administrator  
Anne Arundel County, Maryland

**Judson W. Collins, C.B.O.**  
Programs Manager  
Occupational Licensing Division  
Oklahoma State Health Department

**Cindy L. Davis, C.B.O.**  
Building Official/Zoning Officer  
O'Hara Township, Pennsylvania

**William D. Dupler**  
Building Official  
Chesterfield, Virginia

**Ronald E. Estep, C.B.O.**  
Construction Official  
Hillsborough Township, New Jersey

**Roger L. Fox, C.B.O.**  
Director of Building and Zoning  
Arlington Heights, Illinois

**John M. Gibson, Jr., M.C.O.**  
Director, Department of Permits  
and Inspections  
Frederick, Maryland

**Wayne R. Jewell, C.B.O.**  
Building Official  
Southfield, Michigan

**Steven P. Regoli, A.I.A.**  
Architect Project Administrator  
Ohio Board of Building Standards  
State of Ohio

**Ronald W. Wetmore**  
Code Enforcement Director  
Bedford, Massachusetts

## STAFF

**Chief Executive Officer**  
**Paul K. Heilstedt, P.E.**

July 31, 2001

Mr. Charles J. Sludden  
Director of Bureau of Occupational and Industrial Safety  
Department of Labor and Industry  
Room 1613, Labor and Industry Building  
7<sup>th</sup> and Forster Streets  
Harrisburg, PA 17120

Dear Mr. Sludden:

I have read the Training and Certification Regulations published in the Pennsylvania Bulletin Volume 31, Number 27 dated July 7, 2001 and have the following observations and comments for your consideration:

### 401.5 (a)2 (i) Waivers

Change the word "continued" to "continuous". Only a person who has continuous employment should receive the continuing education requirements in (ii) and (iii)

### 401.6 Certification Categories and Examination Number and Name.

Two examinations have changed names since the original information was submitted to Labor and Industry:

Change Fire prevention inspector to Fire Inspector I (F1)  
Change Accessibility specialist to Accessibility Inspector/Plans Examiner (A1)

### 401.7 Certification Category Specifications

Change 11 to Accessibility Inspector/Plans Examiner  
Change 13 to Fire Inspector I

### 401.8 (e) Certification Renewal

Recommend deleting No. 5. Providers do not routinely provide the subject matter of a course on certificates of attendance or on participation sign-in forms. BOCA does not provide this information.

## Regional Offices

1245 Sunbury Road, Suite 100 • Westerville, OH 43081-9444 • (614) 890-1064 • Fax: (614) 890-9712  
10830 East 45th Street, Suite 200 • Tulsa, OK 74146-3809 • (918) 664-4434 • Fax: (918) 664-4435  
One Neshaminy Interplex, Suite 201 • Treviso, PA 19053-6931 • (215) 638-0554 • Fax: (215) 638-4438  
19 West British American Boulevard • Latham, NY 12110-1450 • (518) 782-1708 • Fax: (518) 783-0889

Serving Government and Industry Since 1915

e-mail: member@bocal.org • http://www.bocal.org

**Abela, Brian**

**From:** Joe Pirozzi [neispa@fast.net]  
**Sent:** Friday, August 03, 2001 10:14 AM  
**To:** babel@qli.state.pa.us  
**Cc:** jvarhola@qli.state.pa.us  
**Subject:** elevator certifications

Brian, the following comments pertain to the new elevator requirements that will require an elevator inspector to be certified in several categories.

We feel this is totally unnecessary. There isn't any other state that requires these multiple certifications. It is our opinion that there should only be two certifications:

- Elevator Inspector, and
- Ski Lift/Tram Inspector

The elevator inspector is certainly qualified to inspect any type of lift that operates in a hoistway, escalators, and wheelchair stairlifts. Requiring additional certification will place an undo burden on the inspection companies, inspectors, and the department.

If you need to contact me you can reach me at (800) 886-7210

Joe Pirozzi

2001 AUG 23 AM 10:35  
REVIEW COMMISSION

---

**From:** Sludden, Charles  
**Sent:** Wednesday, August 01, 2001 8:03 PM  
**To:** Abela, Brian  
**Subject:** FW: Comments to Certification and Training section of the Uniform Construction Code

Big "B": Attached are comments that need to be referred to the appropriate parties. I greatly appreciate you handling the referral. Thanks!! Chuck

-----Original Message-----

From: cdavis@ohara.pa.us [mailto:cdavis@ohara.pa.us]  
Sent: Wednesday, August 01, 2001 3:03 PM  
To: csludden@dli.state.pa.us  
Subject: Comments to Certification and Training section of the Uniform Construction Code

Dear Mr. Sludden:

The following are my comments relative to the Training and Certification requirements/rules published in the Pennsylvania Bulletin.

The terms Code Administrator, Construction Code Official and Building Code Official seem to be used interchangeably. While the definition for Code Administrator seems to suggest that any person certified in any category is a Code Administrator, so does the definition for Construction Code Official. Further there is no definition for Building Code Official in 401.1 but there is a listing for Building Code Official in section 401.6.

To further confuse things Section 401.7 does not have any duty descriptions for either a Code Administrator or a Construction Code Official. However there is a duty description for Building Code Official (which is not defined in the definitions), and the Building Code Official listing in section 401.6 has the words (code administrator) in parenthesis.

I believe these contradictions need to be clarified and simplified.

If it is the intent of the Act to distinguish between inspectors/examiners and administrators then perhaps simply referring to them as "Certified Inspectors/Examiners" would be preferable to calling them administrators which seems to conflict with the intent of the Act.

In addition, conspicuously absent from the regulations is any incorporation of the national certification known as "Certified Building Official" or C.B.O. This particular examination consists of three areas of expertise; Technical, Law and Management and is the only certification recognized on a national level. The technical module of the test includes questions from all disciplines of Codes including building, mechanical, plumbing, electrical, energy and fire. The management module includes testing in areas of budget and personnel as well as general administration. And finally the Law module focuses on constitutional issues of enforcement including tort liability, Civil Prosecutions, injunctive relief, search and seizure, substantive due process, equal protection, elements of negligence, immunities and Civil Rights Actions including Fair Housing, ADA and the

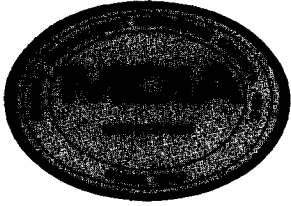
Attorney's Fee Award Act.

The exam is comprehensive in nature and certainly merits consideration of the Department. Certainly, it would be reasonable to require this certification for an Official in charge of a building department. If you feel it is necessary to add an additional test based solely on Pennsylvania law, then consider it as an additional requirement to the C.B.O. However, I firmly believe that anyone holding the C.B.O. certification is more than capable of interpreting the Act and administering a Department. In fact the C.B.O. designation should be given further consideration as an equivalent exam for all of the Residential Certifications, Building Inspector and Plans Examiner, as well as Fire Protection and Plan Examiner.

I would welcome the opportunity to discuss any of these issues with you. Please feel free to contact me at any time. My direct dial telephone number at work is 412-784-1784 ext. 213. My home telephone number is 724-285-8232.

Respectfully,

Cindy L. Davis  
Building Official



**Middle Department Inspection Agency, Inc.**

P.O. Box 2654  
West Chester, PA 19380-0904  
(610) 696-3900

PETER A. CONLOW  
Executive Vice President

Original: 2202

VIA U.P.S. NEXT DAY

July 24, 2001

Mr. Charles J. Sludden, Director  
Bureau of Occupational & Industrial Safety  
Dept. of Labor and Industry - Room 1613  
Seventh & Forster Streets  
Harrisburg, PA 17120

Re: UCC - Proposed Rulemaking - Annex A  
Training and Certification of Code Administrators

Dear Mr. Sludden:

MDIA offers the following comments and suggestions, which were developed by our Pennsylvania inspection staff; comments and suggestions on Errors and Omissions insurance requirements were developed by MDIA President Glenn G. Beaver.

We appreciate this opportunity to provide you with our thoughts, especially on the matter of insurance coverage in the Commonwealth of Pennsylvania. We hope that our suggestions are taken in the spirit in which they are intended, which are constructive in nature for the betterment of the code enforcement activities in which we all take part. We would welcome the opportunity to discuss the entire scope of the insurance question with you in greater detail. Therefore, if you feel a meeting would be helpful and productive, please feel free to contact us.

Yours Truly,

Peter A. Conlow

enclosure

2001 JUL 25 11:03 AM  
MIDDLE DEPARTMENT INSPECTION AGENCY, INC.

2001 JUL 25 11:03 AM  
MIDDLE DEPARTMENT INSPECTION AGENCY, INC.



Several definitions contained in §401.1 Definitions of the Proposed Regulations need clarification or are omitted entirely when compared with definitions in §103 Definitions of Act 45-1999.

The definition of a *third-party agency* as contained in Act 45 should be included.

The definition of *current code administrator* should specifically reflect employees of third-party agencies. Language is offered as follows:

"An individual . . . employed by or under contract with the Commonwealth, a municipality in this Commonwealth **or employed by a third-party agency** prior to [the effective date of this regulation]."

We believe that the Dept. must determine when a municipal code official who is employed by more than one municipality is no longer an "individual", and when he/she is essentially acting as a third-party agency, an entity with a unique set of requirements that must be met (such as errors and omissions insurance) and a higher certification and renewal fee.

§401.5 Waivers paragraph (a)(2)(i) refers to "continued employment in the related field." Does the term "employment" as it is used here refer specifically to inspection employment, or construction or installation employment also?

Further in this subparagraph (2) in (ii) additional text should be added to recognize other organizations such as the International Association of Electrical Inspectors (IAEI).

"Current certification issued by a model code organization **or national professional association of inspectors.**"

As a provider of electrical and building code seminars for many years, MDIA will apply to become a Dept.-approved provider (§401.10(b)). We find no conflict in the Proposed Regulations that would prevent this. We also believe that an organization such as the aforementioned IAEI and its local chapters qualify to be Dept.-approved providers, possibly falling under subparagraph (5).

MDIA has always believed that as a private firm performing a public service, not only should Professional Liability (Errors and Omissions) insurance be carried by a third party inspection agency, but General Liability insurance should be maintained as well. Furthermore, we believe the minimum limit of liability for all coverages should be \$1,000,000. The Department of Labor and Industry has indicated in the proposed regulation that the minimum liability limit shall be \$1 million as one of the minimum

requirements for certification as a third party agency.

The introduction of the Uniform Construction Code in the Commonwealth imposes by statute certain duties and responsibilities upon third party agencies when they contract with a municipality for the purposes of construction code enforcement. When developing insurance requirements for the purposes of certifying third party agencies, we must analyze those duties and responsibilities and the manner in which insurance contracts respond to the unique exposures that can manifest themselves both during the inspection process and after a project is completed. In MDIA's opinion, the duties and responsibilities of the third party agency are twofold.

The first duty and responsibility is to arrive on site and conduct an inspection within the parameters of the appropriate construction discipline. By construction discipline we mean that inspection may be performed by an individual limited to one particular discipline such as plumbing, with another individual coming in with a different level of expertise for a different construction component (e.g. electrical, building, HVAC).

The second duty and responsibility is to pass an opinion as to compliance with the requirements of the discipline for which the on-site inspection is being conducted.

With respect to the first duty, the type of insurance policy that would respond to any claim would be general liability. The type of liability exposure to which a general liability insurance policy would respond, for example, is if an inspector were to, through some mishap, topple a painter's stepladder causing the paint container to empty its contents onto a newly laid wall-to-wall carpet. In this instance, the inspector may have made an error in judgment while walking through the premises, but it was not a professional error. Consequently, the type of policy to respond to such damages would appropriately be one of general liability.

Moving on to the second duty if that same inspector successfully negotiated the stepladder, conducted his inspection, left the premises but failed to notice a violation of the construction code for which he was conducting his inspection, this would be a professional error or omission. Should the error or omission be the proximate cause of a subsequent property damage or personal injury, then an errors and omissions policy would more appropriately respond to the claim or judgment.

In the field of third party liability there are two basic insurance forms that a policy can take. The first type is commonly known as an "Occurrence" form. The other is commonly

referred to as a "Claims Made" form.

An occurrence policy generally covers liability exposures for a specific period. For example, if a general liability insurance policy is purchased for the period of January 1, 2000 to January 1, 2001, it will respond to a covered claim if the event that gives rise to the claim occurs during the policy period. To illustrate, a typical general liability occurrence form would be purchased by a plumbing contractor. Let's assume that the contractor completes the installation of a plumbing system in a new dwelling on January 31, 2000. The home is sold and now occupied by the new homeowner when suddenly one year later, a leak develops causing serious water damage to the dwelling. The disgruntled homeowner makes a claim against the plumbing contractor for the cost to repair his home sometime in 2001. Although the contractor completed his work in 2000 and has a policy to cover his operations for the calendar year 2001, and the claim against him was made in 2001, the policy that would respond would be the policy in force at the time the contractor completed his work, since the event giving rise to the claim was the completion of the work by the plumbing contractor in 2000.

A claims made policy is quite different in operation from an occurrence form. A key element to an effective claims made form is prior acts coverage. Prior acts coverage under a claims made form is usually triggered by what is known as a retroactive date. A claims made form will respond to a claim made against the insured if two conditions are met. The first condition to be met is that the claim **must** be made during the current policy period. The second condition which must be met is that the event which gives rise to the claim occurs **subsequent** to the retroactive date (the prior acts coverage period).

To illustrate the effects of prior acts coverage in a claims made form, let's take the above plumbing contractor's scenario and review the various effects.

Let's assume that the plumbing contractor can only purchase coverage on a "claims made" basis for the year 2001 with a retroactive date of January 1, 2001. In the above situation, the plumbing contractor would probably not be covered by insurance. Why not? As we pointed out, there are two conditions which **must** be met in order for a claims made insurance policy to respond. The claim in the above example would have been made during the current policy period which would have met the first condition. However, due to the limitation placed upon the policyholder (the plumbing contractor) by virtue of the work being completed prior to the retroactive date, the claims made form would preclude coverage. In the alternative, if the contractor had purchased a policy containing a retroactive date of January 1, 2000 (prior

acts) then the claim would indeed be covered by the policy written on a claims made basis.

The reason that we explain all of the above theory is to provide you with sufficient underlying rationale for the way the insurance industry structures policies to cover certain exposures. The type of risk that a third-party agency is exposed to is primarily professional in nature, although the general liability exposure is also present. Because of the type of exposure inherent to the code enforcement activities, greater emphasis should be placed on the professional liability (errors and omissions) insurance requirement but not with total disregard for the need for general liability insurance coverage.

Not only does the insurance industry employ differing policy structures to restrict the potential for defense costs and claim payments, but also there are generally limitations on general liability insurance policies which exclude coverage for professional liability exposures. Insurance companies have specialized policies for specialized exposures. Commonly, insurance companies exclude from general liability insurance contracts coverage for liability for the rendering or failing to render professional services in the performance of any claim, investigation, adjustment, engineering, inspection, appraisal, survey or what it services. By virtue of these types of exclusions a separate policy must be obtained to cover the professional liability (Errors and Omissions) exposure.

Because of these unique approaches to the procurement of adequate insurance policies, MDIA recommends to the Department of Labor and Industry that the following text be implemented in lieu of the current proposal with additions indicated in bold face **thus**; deletions indicated in brackets [thus].

#### § 401.12. Liability insurance

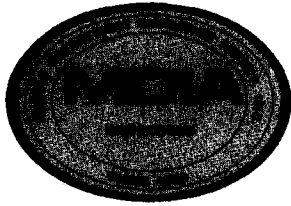
(a) A third-party agency shall carry **general liability insurance and** errors and omissions liability insurance at least in the amount of \$1 million for each person and each occurrence to satisfy claims or judgments for property damage or personal injury, or both.

(b) As a condition for obtaining or renewing certification, a third-party agency shall submit to the Department satisfactory evidence that it has obtained **general liability and** errors and omissions liability insurance as required by this section. A certification or renewal thereof will not be issued unless the third-party agency provides proof of insurance which shall consist of a certificate of insurance **indicating the Department of Labor and Industry as a**

certificate holder and a copy of the declaration page from the insurance policy setting forth the effective date, expiration date, any endorsements which would limit coverage to exclude property damage or personal injury, 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 decertify or refusal).

In the above proposed amendment, you will note that MDIA recommends that the limit of liability for general liability and professional liability (errors and omissions) be maintained at \$1,000,000. We believe that such a limit is adequate for the type of exposure for which a third-party agency could be held responsible.



**Middle Department Inspection Agency, Inc.**

P.O. Box 2654  
West Chester, PA 19380-0904  
(610) 696-3900

PETER A. CONLOW  
Executive Vice President

Original: 2202

VIA U.P.S. NEXT DAY

July 24, 2001

Mr. Charles J. Sludden, Director  
Bureau of Occupational & Industrial Safety  
Dept. of Labor and Industry - Room 1613  
Seventh & Forster Streets  
Harrisburg, PA 17120

Re: UCC - Proposed Rulemaking - Annex A  
Training and Certification of Code Administrators

Dear Mr. Sludden:

MDIA offers the following comments and suggestions, which were developed by our Pennsylvania inspection staff; comments and suggestions on Errors and Omissions insurance requirements were developed by MDIA President Glenn G. Beaver.

We appreciate this opportunity to provide you with our thoughts, especially on the matter of insurance coverage in the Commonwealth of Pennsylvania. We hope that our suggestions are taken in the spirit in which they are intended, which are constructive in nature for the betterment of the code enforcement activities in which we all take part. We would welcome the opportunity to discuss the entire scope of the insurance question with you in greater detail. Therefore, if you feel a meeting would be helpful and productive, please feel free to contact us.

Yours Truly,

Peter A. Conlow

enclosure

2001 JUL 25 10:00 AM  
MIDDLE DEPARTMENT INSPECTION AGENCY, INC.

2001 JUL 25 10:00 AM  
MIDDLE DEPARTMENT INSPECTION AGENCY, INC.

Several definitions contained in §401.1 Definitions of the Proposed Regulations need clarification or are omitted entirely when compared with definitions in §103 Definitions of Act 45-1999.

The definition of a *third-party agency* as contained in Act 45 should be included.

The definition of *current code administrator* should specifically reflect employees of third-party agencies. Language is offered as follows:

"An individual . . . employed by or under contract with the Commonwealth, a municipality in this Commonwealth **or employed by a third-party agency** prior to [the effective date of this regulation]."

We believe that the Dept. must determine when a municipal code official who is employed by more than one municipality is no longer an "individual", and when he/she is essentially acting as a third-party agency, an entity with a unique set of requirements that must be met (such as errors and omissions insurance) and a higher certification and renewal fee.

§401.5 Waivers paragraph (a)(2)(i) refers to "continued employment in the related field." Does the term "employment" as it is used here refer specifically to inspection employment, or construction or installation employment also?

Further in this subparagraph (2) in (ii) additional text should be added to recognize other organizations such as the International Association of Electrical Inspectors (IAEI).

**"Current certification issued by a model code organization or national professional association of inspectors."**

As a provider of electrical and building code seminars for many years, MDIA will apply to become a Dept.-approved provider (§401.10(b)). We find no conflict in the Proposed Regulations that would prevent this. We also believe that an organization such as the aforementioned IAEI and its local chapters qualify to be Dept.-approved providers, possibly falling under subparagraph (5).

MDIA has always believed that as a private firm performing a public service, not only should Professional Liability (Errors and Omissions) insurance be carried by a third party inspection agency, but General Liability insurance should be maintained as well. Furthermore, we believe the minimum limit of liability for all coverages should be \$1,000,000. The Department of Labor and Industry has indicated in the proposed regulation that the minimum liability limit shall be \$1 million as one of the minimum

requirements for certification as a third party agency.

The introduction of the Uniform Construction Code in the Commonwealth imposes by statute certain duties and responsibilities upon third party agencies when they contract with a municipality for the purposes of construction code enforcement. When developing insurance requirements for the purposes of certifying third party agencies, we must analyze those duties and responsibilities and the manner in which insurance contracts respond to the unique exposures that can manifest themselves both during the inspection process and after a project is completed. In MDIA's opinion, the duties and responsibilities of the third party agency are twofold.

The first duty and responsibility is to arrive on site and conduct an inspection within the parameters of the appropriate construction discipline. By construction discipline we mean that inspection may be performed by an individual limited to one particular discipline such as plumbing, with another individual coming in with a different level of expertise for a different construction component (e.g. electrical, building, HVAC).

The second duty and responsibility is to pass an opinion as to compliance with the requirements of the discipline for which the on-site inspection is being conducted.

With respect to the first duty, the type of insurance policy that would respond to any claim would be general liability. The type of liability exposure to which a general liability insurance policy would respond, for example, is if an inspector were to, through some mishap, topple a painter's stepladder causing the paint container to empty its contents onto a newly laid wall-to-wall carpet. In this instance, the inspector may have made an error in judgment while walking through the premises, but it was not a professional error. Consequently, the type of policy to respond to such damages would appropriately be one of general liability.

Moving on to the second duty if that same inspector successfully negotiated the stepladder, conducted his inspection, left the premises but failed to notice a violation of the construction code for which he was conducting his inspection, this would be a professional error or omission. Should the error or omission be the proximate cause of a subsequent property damage or personal injury, then an errors and omissions policy would more appropriately respond to the claim or judgment.

In the field of third party liability there are two basic insurance forms that a policy can take. The first type is commonly known as an "Occurrence" form. The other is commonly



referred to as a "Claims Made" form.

An occurrence policy generally covers liability exposures for a specific period. For example, if a general liability insurance policy is purchased for the period of January 1, 2000 to January 1, 2001, it will respond to a covered claim if the event that gives rise to the claim occurs during the policy period. To illustrate, a typical general liability occurrence form would be purchased by a plumbing contractor. Let's assume that the contractor completes the installation of a plumbing system in a new dwelling on January 31, 2000. The home is sold and now occupied by the new homeowner when suddenly one year later, a leak develops causing serious water damage to the dwelling. The disgruntled homeowner makes a claim against the plumbing contractor for the cost to repair his home sometime in 2001. Although the contractor completed his work in 2000 and has a policy to cover his operations for the calendar year 2001, and the claim against him was made in 2001, the policy that would respond would be the policy in force at the time the contractor completed his work, since the event giving rise to the claim was the completion of the work by the plumbing contractor in 2000.

A claims made policy is quite different in operation from an occurrence form. A key element to an effective claims made form is prior acts coverage. Prior acts coverage under a claims made form is usually triggered by what is known as a retroactive date. A claims made form will respond to a claim made against the insured if two conditions are met. The first condition to be met is that the claim **must** be made during the current policy period. The second condition which must be met is that the event which gives rise to the claim occurs **subsequent** to the retroactive date (the prior acts coverage period).

To illustrate the effects of prior acts coverage in a claims made form, let's take the above plumbing contractor's scenario and review the various effects.

Let's assume that the plumbing contractor can only purchase coverage on a "claims made" basis for the year 2001 with a retroactive date of January 1, 2001. In the above situation, the plumbing contractor would probably not be covered by insurance. Why not? As we pointed out, there are two conditions which **must** be met in order for a claims made insurance policy to respond. The claim in the above example would have been made during the current policy period which would have met the first condition. However, due to the limitation placed upon the policyholder (the plumbing contractor) by virtue of the work being completed prior to the retroactive date, the claims made form would preclude coverage. In the alternative, if the contractor had purchased a policy containing a retroactive date of January 1, 2000 (prior

acts) then the claim would indeed be covered by the policy written on a claims made basis.

The reason that we explain all of the above theory is to provide you with sufficient underlying rationale for the way the insurance industry structures policies to cover certain exposures. The type of risk that a third-party agency is exposed to is primarily professional in nature, although the general liability exposure is also present. Because of the type of exposure inherent to the code enforcement activities, greater emphasis should be placed on the professional liability (errors and omissions) insurance requirement but not with total disregard for the need for general liability insurance coverage.

Not only does the insurance industry employ differing policy structures to restrict the potential for defense costs and claim payments, but also there are generally limitations on general liability insurance policies which exclude coverage for professional liability exposures. Insurance companies have specialized policies for specialized exposures. Commonly, insurance companies exclude from general liability insurance contracts coverage for liability for the rendering or failing to render professional services in the performance of any claim, investigation, adjustment, engineering, inspection, appraisal, survey or what it services. By virtue of these types of exclusions a separate policy must be obtained to cover the professional liability (Errors and Omissions) exposure.

Because of these unique approaches to the procurement of adequate insurance policies, MDIA recommends to the Department of Labor and Industry that the following text be implemented in lieu of the current proposal with additions indicated in bold face **thus**; deletions indicated in brackets [thus].

§ 401.12. Liability insurance

(a) A third-party agency shall carry **general liability insurance and** errors and omissions liability insurance at least in 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 or renewing certification, a third-party agency shall submit to the Department satisfactory evidence that it has obtained **general liability and** errors and omissions liability insurance as required by this section. A certification or renewal thereof will not be issued unless the third-party agency provides proof of insurance which shall consist of a certificate of insurance **indicating the Department of Labor and Industry as a**

certificate holder and a copy of the declaration page from the insurance policy setting forth the effective date, expiration date, any endorsements which would limit coverage to exclude property damage or personal injury, 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 decertify or refusal).

In the above proposed amendment, you will note that MDIA recommends that the limit of liability for general liability and professional liability (errors and omissions) be maintained at \$1,000,000. We believe that such a limit is adequate for the type of exposure for which a third-party agency could be held responsible.

**Abela, Brian**

**From:** Sludden, Charles  
**Sent:** Monday, July 23, 2001 9:43 AM  
**To:** Anthony, Ronald; Brian Abela; Curt Harris; Galli, Karen (E-mail); Hoffman, Mitchell; James A. Holzman (E-mail); Jon Balson (E-mail); Leister, Edward; Marty Cunningham (E-mail); Rob Sterner; Varhola, James  
**Subject:** FW: State wide code/certification requirements

**Team Members: FYI**

-----Original Message-----

**From:** Souders99rs@aol.com [mailto:Souders99rs@aol.com]  
**Sent:** Sunday, July 22, 2001 3:28 PM  
**To:** csludden@state.pa.us  
**Subject:** State wide code/certification requirements

Dear Sir, it appears that you are well on your way with the state wide building code, I'm sure that's lots of work and many long hours have been put into this by you and your staff, and there are probably as many if not more hours to go before this is a done deal. I have been in the business for some time now and I am currently employed as a Code Administrator / Director of a local municipality's department. We struggle daily with the work load we have related to plan reviews and inspections not to mention all the other items handled by our department that keep us really really busy, as I first looked over the article in the bulletin I thought that we were going to get some relief as far as certification goes and as I looked closer I see that we are not, Please revisit the requirements for certification, there should be some credit given to those who have been doing this for several years...certainly we cannot just ask these men and women to start over...I'm not suggesting grandfathering, just some credit for the time spent in the trade...toward certification...as if it were a school, experience is the best teacher !!

Thank you

Randy Souders  
VP Pennboc Region 5  
Director of Community Development & Code Enforcement  
Upper Allen Twp, Cumberland County PA>

2001 JUL 25 PM 1:08  
RECEIVED  
COMMUNITY DEVELOPMENT  
CUMBERLAND COUNTY PA

**From:** Dingman Township Offices [mailto:dingman@warwick.net]  
**Sent:** Thursday, July 19, 2001 12:59 PM  
**To:** webmaster@dlr.state.pa.us  
**Subject:** STATEWIDE BUILDING CODE

ORIGINAL: 2202

2001 JUL 20 11:10:07  
RECEIVED  
STATE DEPARTMENT OF LABOR AND INDUSTRY

July 13, 2001

Pennsylvania Department of Labor and Industry  
Pennsylvania Association of Township Supervisors  
Senator Lemmond, Jr  
Rep. Birmelin  
Pennsylvania Builders Association  
Pike County Builders Association

Gentlemen or Ladies,

We write to express our concerns as to some aspects of the proposed regulations for the implementation of the statewide building code. Several sections of the proposed regulations will make it difficult if not impossible for rural municipalities to administer the code. The lack of an adequate budget and adequate personnel make turning over the operation to the state an impractical alternative.

1. The staffing of a Board of Appeals, under the proposed standards (§403.40), requires individuals with experience or professional licenses for which there is an insufficient pool in rural areas. Even with the creation of a countywide Board of Appeals it would be very difficult to staff a board with this level of expertise. Our experience indicates that it is very rare for an appeal to involve technical issues in fire protection, HVAC, electric or plumbing. Most construction in rural areas is residential. Requiring a

7/19/01

licensed professional for each phase of construction or highly experienced board member to be present for the lion's share of the appeals filed would be a waste of time, money and effort. Many of the licensed professionals and experienced individuals that are being sought for these positions are versed in more than one phase of construction. Therefore we suggest the following:

- a. **In any municipality with a population of less than 20,000 persons, the Governing Body shall appoint a Board of Appeals that shall consist of five (5) members. At least one of which shall be either a licensed professional engineer or registered architect. The other four (4) members shall be either licensed professional engineers or registered architects or persons who are knowledgeable in the field of construction with at least ten (10) years experience in the supervision of construction and/or as a builder. Two alternate members shall be appointed and called upon in the absence or disqualification of a member. Alternate members shall possess the qualifications required for a board membership. The Board shall engage consultants to assist when the subject matter of any appeal requires further expertise in relation to architecture, structural engineering, electrical engineering, mechanical and/or HVAC engineering, plumbing engineering, or fire protection engineering.**
  - b. **Members of the Board of Appeals shall be permitted to be members of other Committees or Boards of this or any other municipality.**
  - c. **The Board shall draft their performance criteria and guidelines for the operation of the Board, i.e., bylaws giving meeting times, dates, voting, scope to be addressed and information to be passed to community, etc.**
2. We foresee the potential for serious problems if there are an inadequate number of certified experienced inspectors to inspect certain aspects of construction at the time of implementation of the Code. Reliance upon the market place to fill the positions created by the state-mandated demand will take a great deal of time. There will be a tremendous negative impact on the economies of rural areas if it takes weeks or months to schedule a certified inspector to review certain aspects of homes or other buildings. Labor and Industry should assure all areas of the state that an adequate number of experienced inspectors have been certified for every specialty to handle the reasonably anticipated projects for the two-year period following implementation.

Your consideration to address our concerns is appreciated.  
Please forward comments to: Dingman Township Board of Supervisors  
118 Fisher Lane  
Milford, PA 18337

Sincerely,  
Dingman Township Board of Supervisors

\_\_\_\_\_  
Dennis Brink  
Chairman

\_\_\_\_\_  
Al Greening, Jr,  
Vice Chairman

\_\_\_\_\_  
Tom Mincer  
Supervisor