

Comments of Carl M. Watson, P. E.
On the Proposed Implementation of the Uniform Construction Code (UCC)
September 11, 2002

My name is Carl Watson. I am a Pennsylvania-licensed Registered Professional Engineer, in private practice in Wynnewood, Pennsylvania. I am speaking on my own behalf and I am not been compensated for these comments by anyone. My practice includes electrical and energy engineering, within emphasis on lighting design and application. I therefore work with codes and technical standards in the course of my business, and will be subject to the rules of the UCC.

I'm here today to address two different areas of the proposed UCC that are of great concern to me as a design professional. The first of those concerns involves the proposal to adopt the 2000 International Energy Conservation Code (IECC) which references the ASHRAE/IESNA Standard 90.1 -- 1989. What should clearly be adopted *instead* is either the 2001 or 2002 supplement to the IECC, which both reference ASHRAE/IESNA Standard 90.1 - 1999.

The reason for adopting this much more up-to-date standard are as follows:

- A) The 1999 Standard 90.1 is based on currently available technology which is in wide use in Pennsylvania and throughout the United States.
- B) The 1999 Standard 90.1 is written in code-enforceable language, and has much more simple procedures for determining compliance compared to the 1989 Standard.
- C) The 1999 Standard 90.1 is also an ANSI Standard, and adjacent states such as New York and New Jersey are currently using and enforcing it.
- D) The 1999 Standard 90.1 will bring Pennsylvania into compliance with United States Department of Energy requirements for commercial buildings.
- E) Pennsylvania has never really had a effective energy code, prior to that which is proposed in the UCC. Since the adoption of the UCC will necessitate local municipal codes officials being trained in order to become proficient in the determining compliance, it certainly makes sense to start this process with a modern, well-written standard as the basis for energy code enforcement in Pennsylvania.

The second of my concerns involves the proposed adoption of the ICC Electrical Code (ICC/EC) as part of the UCC. A brief overview of the ICC/EC is helpful in understanding why this is clearly not in the best interest of anyone in the Commonwealth.

- A) The ICC/EC is only an administrative procedure document. It does not contain sufficient technical standards and hence is not adequate or complete as an electrical code.

- B) The ICC/EC has been recently created with consensus of only government officials. Those officials are the *only* ones who can vote to update or amend it.
- C) The local municipal code enforcement officers are generally unfamiliar with the ICC/EC. They will need to change how they do business today, if it is adopted. This adds unnecessary expense and new bureaucracy.
- D) The ICC/EC is not widely used. Not one state in the United States has yet adopted the ICC/EC as their electrical safety standard for code compliance.

In contrast, a brief summary of the existing National Electrical Code (NEC) is useful:

- A) The 2002 NEC contains both administrative and enforcement procedures (article 80), and complete technical standards.
- B) The NEC was developed with input from a wide variety of sources, including government officials, electrical inspectors, design professionals, electrical workers, equipment manufacturers, and many others. Its amendment process allows for maximum input from all interested parties.
- C) The local municipal code officials are thoroughly familiar with the NEC (as are inspectors, designers, electrical workers, and others), and have been using and enforcing it for decades.
- D) The NEC is the most widely recognized and accepted electrical safety code in the world. It is a national consensus standard that has been in use in the United States for more than 70 years.

Therefore, based on the above, I am requesting that the department of Labor and Industry provided an alternative to the ICC/EC, in the form of the 2002 National Electrical Code (NFPA 70) as part of the adoption of the Uniform Construction Code.

Thank you for the opportunity to make my concerns known.

Respectfully submitted,

Carl M. Watson, P. E

PA Building and Energy Code Meeting Talking Points
September 11, 2002
Plymouth Township Community Center
Plymouth Meeting, PA

2002 SEP 19 11:03 AM
Plymouth Meeting, PA

1. Introduction – President of the Delaware Valley Chapter of the Association of Energy Engineers, more than 350 members locally, approximately 8,000 members nationally. *Past president of AFE-TRENIDN CHAPTER (Association for Facilities Engineering)*

“... a dedicated group of over 8,000 professionals in 67 local and regional chapters committed to helping their firms or clients increase energy efficiency, utilize innovative energy service options, enhance environmental management programs, upgrade facility operations, and improve equipment performance -- while at the same time bolstering their organizations' bottom lines.”

A
I have been in facilities and energy management for more than 25 years.

2. Our local Chapter has endorsed the implementation of ASHRAE 90.1-1999

3. The DOE ruled on 7/15/02 that all states must meet the requirements of ANSI/ASHRAE/IESNA Std. 90.1-1999, we expect the State of Pennsylvania to meet these requirements as a minimum. We recommend further that the State of Pennsylvania demonstrates its commitment to energy efficiency by adopting the current standard, ~~90.1-2001~~.

4. The States of New Jersey and Delaware have ~~adopted the ASHRAE 90.1-1999 code~~ *already*

5. The 1999 code gives owners a lot of latitude (not overly restrictive) and is fairly easy to use. *in this country*

6. It is anticipated that our energy use will increase by 30% in the next 18 years (year 2020), causing the building of more power plants and adding to the pollution problem. This code will help slow down the rate of growth. *A*

7. The 1999 standard makes economic sense; gives a good return on investment.

8. The standard keeps up with technological advancements and doesn't overburden design engineers or building owners.

9. In general, the code is not overly burdensome, helps the power industry and building owners—that is, it makes sense!

RANDOLPH L. HAINES

PRESIDENT OF Delaware Valley Association of Energy Engineers

ATT: CHARLES J. SLUDDEN, JR. Director

Re Proposed Administration & Enforcement Regulation
Act 45 U.C.C.

RECEIVED 11/10/02
DEPARTMENT OF CONSUMER AFFAIRS

From Robert F. Loeper, Jr. Codes Administrator
RADNOR Tshp. Delaware County
DATE 9/10/02
General Comments

There are a number of occasions where the Code Official is referenced. There should be a provision added that allows a designee to perform the duty on behalf of the Code Official since this is what will typically occur on most occasions.

It appears that you have created a new administrative section of the code to replace Chapter 1 of the IBC. Why create new administrative provisions when Chapter 1 of the IBC already exists and has survived the test of time. Inspectors in Pennsylvania are familiar with these provisions and have played a role in the code changes that have resulted in these provisions over the years.

401.1 ADD DEFINITION OF - CONST. CODE OFFICIAL AND DEPT. OF L+I (DEPT.)

401.1 Definition of Fire & Panic Act - It was our understanding that the Fire & Panic Act was being repealed. There are a number of references to this Act in the proposed rules. Are portions of this Act remaining in place? If so, are local jurisdictions that choose to enforce the UCC expected to enforce any portion of the Fire & Panic Act?

403.1 SCOPE - WHAT DOES "EXISTING STRUCTURES THAT ARE NOT LEGALLY OCCUPIED." MEAN (is this needed)

403.21 a 2 - Adoption of the ICC Electrical Code (ICCEC). The ICCEC includes both administrative standards and code standards. This will be confusing to local inspectors since we have all used the National Electrical Code for many years. If both codes are used, inspectors will have to go to two codes to determine which one applies. We recommend the adoption of only the administrative standards of the ICCEC. This will avoid confusion and allow all inspectors to refer to only one code to determine whether the electrical installation complies with the UCC.

7 403.23 (a) Family Day Care & Group Child Day Care - This is an example of a provision that refers to the Fire & Panic Act. How are local jurisdictions suppose to enforce the Fire & Panic Act when this information has not been provided to us?

* 403.26 (a)(1) Does this provision prohibit local jurisdictions from adopting Chapter 1 of the IBC. If not, it should be clarified which provision applies if there is a conflict between IBC Chapter 1 and the UCC regulations.

403.26 (a)(2)(iii) See the ICCEC comments listed above in 403.21.

403.42 (b) Permit Apps - DCED will be creating permit apps that everyone has to use. Will local jurisdictions be contacted about info that we need on the app? If not, each community will have to create an addendum. When will this application be available for review by local jurisdictions? This is also referenced in Section 403.62(b).

MUST JURISDICTIONS USE THE DCED FORM ??

403.42 (c) The IBC already provides a section that describes when a permit is required. If you decide to leave these provisions in place, the retaining wall provision must be revised (see note below).

403.42 (c) (1) (iii) Retaining Walls – Since footings are typically 3' deep, a permit will be required for a retaining wall over 1' above grade. Was this the intention of this provision? If not, this should be spelled out more clearly. This is repeated in Section 403.62 (ii). If these provisions remain, we recommend requiring a permit for any retaining wall more than 4' above grade or any retaining wall more than 2' above grade with a surcharge greater than that created by standard backfill.

403.42 (g) This section requires plans be prepared by an architect or engineer for all additions. There are many small one-story additions that do not require the services of an architect or engineer. This is currently left to the determination of the local jurisdiction. Since it is difficult to create standards that are clear and make sense in all cases, we recommend that this provision remain in the jurisdiction of the local jurisdiction. *STRIKE "IF THERE IS NO COMPENSATION"*

403.43 (c) This section requires the code official to mark the required changes necessary to comply with the code on the plan. This is contrary to all legal advice code officials have received to date. This places us in a position of designer, which creates additional legal liability. Has this been legal question been researched by the attorneys that have reviewed these regulations? We recommend that the local jurisdiction prepare a list of code deficiencies that must be sent to the applicant. This notice would inform the applicant to make the necessary corrections to the plan and resubmit for approval.

403.45 (c) A provision should be added requiring a minimum of 24 hours notice for any inspection request.

403.45 (e) (8) We can not issue a final inspection report that includes elevators when we do not have jurisdiction to inspect elevators. This should be a report from the PA Dept of L&I.

(+add)
403.46 - Cont. occupancy - Should contain the same information

403.44 403.47 (a) The Code Official does not typically authorize a utility connection. This section should require that a permit be obtained prior to a utility connection. The permit would provide the local jurisdiction's authorization to proceed with the work to connect the utility. This would eliminate any question of jurisdiction on a utility connection.

403.48 (b) Boilers. This section describes when a permit is not required. Local jurisdictions are not familiar with this law. Unless the rules are more specific, this could also be interpreted incorrectly by a contractor who determines that they do not need a permit for a residential boiler (as they define that term).

403.62 Permit Application & Approval. See notes above (403.42 c) relating to when a permit is required.

b. DECID FORA REQUIRED by All ??

403.63 (H) The inspector is not provided with the name of the lender or the address for the owner. We recommend that the final inspection report be provided to the permit holder who is responsible to send it to the lender and/or the property owner.

MUNICIPALITY NOT SEND COPY TO LENDER

403.64 (b) (2) The name and address of the property owner is not always made available to the code official.

403.65 — PERMIT REQUIRED TO CONNECT!

403.82 (1) There are occasions that no one is on the job site during an inspection. The violations can not be discussed when this occurs. In this situation, the inspector may have to leave a notice posted on the job site.

403.86 (e) FIRE AND PUBLIC ACT should be Repealed!

403.121 Board of Appeals – Section (a) establishes the standards for the Board of Appeals and refers back to section 501 (c) of the Act. Why not place the standards in this section. The current language refers back to the 1999 BOCA Code. Many Municipalities do not have the 1999 BOCA Code since many of us planned to go right from the 1996 BOCA Code to the 2000 IBC when Act 45 was adopted. We recommend that the standards for the appeals board be added to section 403.121.

403.102 (e) This entire paragraph should be relocated to a more appropriate section.



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BOIS
DIRECTOR'S OFFICE
September 11, 2002

Charles J. Sludden, Director BOIS
Department of Labor and Industry
Room 1613, Labor & Industry Bldg.
7th and Foster Streets,
Harrisburg, PA 17120

RE: Additional Correspondence from UCC Meeting of September 9, 2002

Dear Mr. Sludden,

After attending the UCC meeting in Monroeville (9/9/2002) I had more questions that came to mind on my drive home, I left written documentation at the meeting containing 2 questions, I would appreciate your comments on the following too. We do not object to the new regulations, in fact we look forward to working with them, however there has been no communication between the DLI and the fee inspection companies, that is the most unprofessional and disturbing fact of this legislation.

3. When was the DLI planning on notifying its Commonwealth of Penna. certified & commissioned fee inspectors or their employers of the new proposed regulations? The "new" QEI certification regulations are supposed to be in effect but our office has never received any information as of this writing. Since when is word of mouth the appropriate manner of DLI communication?
4. How are the new testing requirements for hydraulic elevators going to be phased in?
5. Currently we are supplied with preprinted inspection forms from the DLI, what forms will be used in conjunction with the "new" regulations?
6. Will we have the authority to "seal" a unit after a failed test?

Thank you for your consideration in this matter.

Sincerely,

Patrick J. O'Neill, President
Poneill@stargate.net

cc: Mr. Stephen Barsotti, Esq.

Original; 2283

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY

----- x
Uniform Construction Code :
Administration & Enforcement :
Stakeholders Meeting :
----- x

Pages 1 through 52 Community Center
2910 Jolly Road
Plymouth Meeting, Pennsylvania

Wednesday, September 11, 2002

Met, pursuant to notice, at 2:10 p.m.

BEFORE:

JON BALSON, Moderator
KAREN GALLI, Esquire

600 334 1063

Commonwealth Reporting Company, Inc.
700 Lisburn Road
Camp Hill, Pennsylvania 17011

(717) 761-7150

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FORM 2

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P R O C E E D I N G S

MR. BALSON: Good afternoon.

I wasn't supposed to be the Moderator. But I think we need to get started here because the Moderator and another person from L&I are --

MS. GALLI: Stuck in traffic.

MR. BALSON: -- stuck in traffic.

My name is Jon Balson. I am the Administrator for the Uniform Construction Code.

The purpose of today's hearing is to take public comments; hopefully, everyone is also making an oral presentation as well. There are written comments. So we want to take both your oral and written comments about the proposed administration enforcement regulations.

And, before we get into taking any comments, I'd like to ask Karen Galli, who's the assistant counsel with the department, to come up and share with you more about the purpose of today's meeting and where we go from here after this public meeting and the public meeting that occurs this coming Friday.

MS. GALLI: This is our second of

1 three public meetings -- actually, it's a public
2 hearing. And the purpose of the hearings is to
3 take public comments on the proposed regulation
4 that was published in the Pennsylvania Bulletin
5 on August 24th.

6 The first meeting happened on
7 Monday in Monroeville. We have another meeting
8 on Friday in Grantville, which is a suburb of
9 Harrisburg.

10 To tell where we are with the
11 regulation right now, the proposed regulation
12 has been posted as a bulletin. It was published
13 on August 24th. With that, is a 30-day comment
14 period. These hearings are held to coincide
15 with the 30-day comment period. So any written
16 or verbal comments we get will be considered
17 comments for the purposes of the regulation.
18 IIRC requires that we get comments during the
19 regulation -- that we address all the comments.
20 So all the comments made today and all the
21 comments made in writing will be addressed in
22 the final rule-making.

23 And you will basically see that
24 in the preamble. The preamble, which comes
25 before the rule-making, addresses each comment

1 that we receive as long as it's germane to the
2 issue. For example, if it's a comment on
3 training and certification regulations which
4 became final, we probably won't be addressing
5 that in the public comment. We will probably
6 respond to you. But we won't be addressing that
7 as part of this regulation because that is
8 already a final regulation.

9 What happens now is that the
10 public comment period is open until September
11 23rd. So, up until September 23rd, any comments
12 that we receive will be considered public
13 comments and will be addressed during final
14 rule-making.

15 After September 23rd, what we
16 will do at the department is: we will take all
17 the comments we receive, we'll review them, and
18 we'll determine whether or not it's appropriate
19 to change the regulation.

20 During the last regulation we
21 did, the training and certification regulation,
22 we made many, many changes based on the public
23 comment. And I assume right now we're going to
24 make a significant amount of changes based on
25 the public comment period.

1 The public comment period ends as
2 of September 23rd. There's also a comment
3 period for the standing legislative committees.
4 And that ends on October 15th. And there's also
5 a comment period for the independent regulatory
6 review commission. And that ends on October
7 25th.

8 The department anticipates that
9 we will submit our final formal rule-making by
10 the end of the year in December of 2002. And
11 what will happen when we submit our final formal
12 rule-making to IIRC is that it will be published
13 in final form in the Pennsylvania Bulletin.

14 Like I said before, all the
15 comments you make today are considered public
16 comments. If you can't make a comment today or
17 you're not prepared to make a comment today, you
18 still have plenty of time to make the comment.
19 You can mail it to us or you can email to us --
20 any comments you have by September 23rd. If
21 you've made comments today and you have more
22 comments you'd like to make, you can still
23 submit them to us by September 23rd.

24 Jon is going to come back up here
25 and we're going to start with who signed in and

1 who would like to make a comment. What Jon is
2 going to do is: he's going to read everybody on
3 the list. So, if you said no and you changed
4 your mind, you can still make a comment.

5 We're going to ask you to come up
6 to the microphone. State and spell your name
7 for the court reporter. And then make your
8 comment. And, if you have any written comments
9 to go along with your oral comments, we would
10 ask that you provide them to us at this time.

11 Thank you.

12 MR. BALSON: The first person on
13 the list is Terence Falvey. He's indicated he'd
14 like to make comments.

15 Would you come forward, please?
16 Whereupon,

17 TERENCE P. FALVEY
18 commented as follows:

19 MR. FALVEY: Good afternoon.
20 Thank you for this opportunity to address you
21 folks.

22 The proposed code addresses a
23 myriad of construction topics from water and
24 sewer pumping to retaining walls. My remarks
25 today are focused on the energy efficiency

1 standards proposed for the code.

2 The proposed code adopts ASHRAE's
3 standard for 1989, energy standard for buildings
4 except low-rise residential buildings. It's
5 called 90.1. So 1989, of course, makes it about
6 13 years old. This reliance on dated energy
7 efficiency standards throughout the Commonwealth
8 is regrettable, for it needlessly damages our
9 state's economy and its environment. In
10 addition, inefficient energy use impacts far
11 beyond Pennsylvania's borders.

12 Inefficient energy practices
13 ripple through our state's economy, not with a
14 tidal wave but rather like a series of small
15 waves, unnoticed by continually eroding our
16 ability to attract and grow the businesses of
17 the 21st century. For inefficient energy use is
18 but a euphemism for inefficient fiscal
19 practices. Inefficient energy use translates
20 directly to higher utility bills.

21 Indeed, one could think of higher
22 utility bills for commercial and industrial
23 accounts as an energy tax, discouraging business
24 incubation efforts, inhibiting job growth,
25 driving away our bright college graduates, and

1 impeding the governor's rebuilding plans in
2 Pennsylvania. Silently but surely, Pennsylvania
3 becomes "Pennsylvltucky."

4 And the worst aspect of this tax
5 is that the revenue doesn't go to government.
6 But the revenue from this energy tax goes to
7 energy companies both here and overseas. And,
8 on this dates above all others, September the
9 11th, do we in Pennsylvania want to be seen as
10 passively underwriting this country's dependence
11 on foreign oil? Do we want laws that
12 encouraging the hemorrhaging of our dollars to
13 countries that do not have our best interests at
14 heart? Weren't most of the 9/11 hijackers Saudi
15 citizens.

16 Inefficient energy use also means
17 more energy use, which translates directly to
18 more emissions. Our air in the Philadelphia
19 area is so polluted now that on hot, humid
20 summer days, older citizens and infants are
21 urged to stand indoors to avoid breathing this
22 outside area. What does this say about our
23 quality of life? And, more importantly, about
24 our values? Are we to adopted dated energy
25 standards and just ignore the resultant increase

1 in pollutants?

2 In adopting a modern Uniform
3 Construction Code for the 21st century, you are
4 not operating in a vacuum. Your decision
5 impacts a variety of issues. And, at the
6 beginning of my remarks, I said that adoption of
7 '89 standard needlessly delivers several
8 negative impacts. Needlessly, because ASHRAE
9 has twice updated this standard since 1989 --
10 once in 1999 and again last year.

11 Surely, our state deserves an
12 energy policy that relies on proven modern
13 efficient methods of meeting its citizen's
14 energy needs. Restore health and wealth to our
15 state. Adopt ASHRAE's latest standards for both
16 Pennsylvania and the nation.

17 MR. BALSON: One of the things
18 that I forgot to mention is that, initially,
19 we'd like to limit times to about five minutes.
20 I'll try not to be too arbitrary about that.
21 But, if we get through all the commenters and
22 there's still additional time, we'll ask you to
23 come forward and make additional comments at
24 that time. Okay?

25 The second person on our list is

1 Jack Sai. I'm not sure if I pronounced your
2 last name correctly. And you've indicated that
3 you'd like to make comments. Would you please
4 come forward?

5 MR. SAI: Thank you.

6 We submitted written comments on
7 behalf of the Associated Builders and
8 Contractors. There's no need to offer oral
9 comments.

10 MR. BALSON: Okay.

11 Joe Rapine.

12 Is that correct?

13 MR. RAPINE: Close.

14 Whereupon,

15 JOSEPH P. RAPINE

16 testified as follows:

17 MR. RAPINE: Good afternoon.

18 I'm here to comment about some of
19 the proposed changes on the elevator, escalator
20 industry, as this code relates to that.

21 There is -- in four-oh-five-dash-
22 one (405-1), there is a comment in there that
23 elevators and lifting devices solely used by the
24 occupants of dwelling unit be excluded from
25 inspection. We would like to see that that does

1 not happen. Because these elevators that are in
2 these private homes are just as dangerous as the
3 commercial type.

4 Recently, in Kulpsneck, New
5 Jersey, about a month ago, a nine- and a ten-
6 year old were killed on a private residential
7 elevator. And the reason they were killed would
8 have been picked up by an inspection.

9 The exemption of the elevator and
10 other conveyances from the coverages of this
11 code is not in the best interest of the people
12 of Pennsylvania. The code in section four-oh-
13 three-point-six-three (403.63) on page 36
14 requires inspection on general building
15 information, electrical, plumbing, mechanical,
16 energy conservation, and fuel gas. I don't
17 understand why that elevators in private
18 residences are excluded from inspection. And I
19 would like to see them put back into this code
20 rather than excluded from it.

21 Also, four-oh-five-point-two
22 (405.2) -- I'd like to add ANSI Code ASCE 12,
23 Automated People Mover Standards, to be put into
24 the code. This technology has increased the use
25 of APM's and should be incorporated into this

1 document. There's going to be more and more of
2 these.

3 Also, I'd like to see added an
4 ANSI code A-ten-point-four (A10.4), Personnel
5 Hoist and Employee Elevator language. There's a
6 lot of use of this equipment on job sites.

7 Thank you.

8 MR. BALSON: The next person is
9 Carroll Godwin.

10 One other request of you: when
11 you come forward, if you're here representing an
12 association, could you please indicate what your
13 affiliation is when you come forward?

14 Whereupon,

15 CARROLL GODWIN
16 testified as follows:

17 MR. GODWIN: Thank you.

18 I come today as a retired
19 professional engineer. I'm also an advocate for
20 persons with disabilities and a former member of
21 the governor's committee on employment of
22 persons with disabilities.

23 I come in reference to four-oh-
24 three-point-one-oh-three (403.103) section B.
25 Section B refers to a municipal -- program

1 review every five years. This seems to be just
2 a little long in allowing too many things to
3 happen over too long. I would suggest dropping
4 it to three years.

5 In the state law section three-
6 oh-one (301) subsection five alienates two
7 responsibilities of the Department of Labor and
8 Industry. The first is the review. The second,
9 which is not addressed here, is the enforcement
10 procedures which are necessary to make it work.
11 I heard the comment recently that this
12 certification will take of this. The
13 certification would come after a long process
14 and does not specifically, as the law is
15 written, address the enforcement of these rules
16 and regs as they will be presented.

17 I thank you.

18 MR. BALSON: The next person that
19 indicated that he's like to make comments is
20 Larry Spielvogel.

21 Whereupon,

22 LAWRENCE G. SPIELVOGEL

23 testified as follows:

24 MR. SPIELVOGEL: Good afternoon.

25 My name is Larry Spielvogel. I'm

1 an independent registered professional engineer
2 practicing in Pennsylvania with offices in King
3 of Prussia. I will be subject to these rules.
4 I am here on my own behalf and at my own
5 expense. I am not being supported or paid for
6 these comments by anyone.

7 For the last 30 years, I have
8 participated in building code development and
9 adoption hearings, served on, commented on, and
10 chaired national committees that write,
11 maintain, interpret and revise the codes and
12 standards used for buildings, including those
13 being proposed here in Pennsylvania.

14 There are two main issues I will
15 focus on today. First, the energy conservation
16 codes proposed for adoption are already more
17 than one generation behind, and will be two
18 generations behind national standards by the
19 time these rule are finalized and published.
20 They do not and will not meet the federal
21 statutes and regulations that the states are
22 obligated to meet. Thus, the code proposed here
23 does not take advantage of current technology,
24 products, economics, and construction
25 techniques. The codes now in use in New Jersey

1 and New York are much more up to date.

2 Second, the Pennsylvania Housing
3 Research Center alternate proposal for the
4 residential energy code is substantially less
5 stringent than any national standard or building
6 code, and is a travesty for home owners. It
7 will allow builders to construct cheaper houses
8 and townhouses that waste energy efficiently and
9 will be less comfortable than houses built to
10 any current national code or standard. Spending
11 a few hundred dollars on a high efficiency
12 furnace, builders will be allowed to use poor
13 quality windows and substandard insulation in a
14 drafty, uncomfortable house. Houses that heat
15 with oil or propane won't even qualify.

16 My detailed comments address 138
17 other issues besides the two I just mentioned
18 that require revision or removal.

19 Therefore, I first recommend that
20 the Department of Labor and Industry propose to
21 adopt the 2003 International Codes, not the 2000
22 version, which should be approved three weeks
23 from today and available shortly thereafter. We
24 have waited three years for L&I to publish this
25 proposed rule, so waiting another few weeks or

1 months would not be a problem. The 2003
2 International Codes will give us the more
3 refined, up-to-date, state-of-the-art
4 International Codes available. The errors in
5 the first printing of the first edition have
6 been fixed in the 2003 version.

7 Second, I recommend that L&I
8 delete the Pennsylvania Housing Research Center
9 alternative. The International Codes already
10 contain prescriptive methods that account for
11 Pennsylvania climatic conditions and that
12 balance energy savings with construction costs
13 as required by the law. My formal comments
14 contain extensive details and reasons why the
15 Pennsylvania Housing Research Center alternative
16 should be dropped.

17 And, unfortunately, they don't
18 have a projector here. But it's really the
19 Pennsylvania Housing Research Center code for
20 discomfort and the waste of space conditioning
21 energy for housing in Pennsylvania.

22 In the alternative, the National
23 Fire Protection Association has just published a
24 new American National Standards institute-
25 approved building code, which can be used in

1 lieu of all of the International Codes. Most
2 building code and fire safety officials in
3 Pennsylvania are already familiar with many of
4 these requirements. This would require action
5 by the legislature since the current law
6 requires adoption of the BOCA codes or their
7 successors. Therefore, I recommend that L&I
8 evaluate and compare the two sets of codes, seek
9 public comment, and advise the legislature if
10 changes in the law should be made.

11 With such major changes in the
12 building codes for the design and construction
13 industry about to take place in Pennsylvania, it
14 is more important than ever for our government
15 to provide us with the most up-to-date
16 comprehensive requirements that can be
17 implemented and enforced to achieve the desired
18 public health and safety. Please do not enforce
19 a statewide building code with antiquated
20 requirements.

21 I will leave a copy of my initial
22 comments -- my complete comments with the
23 hearing officer. There are 50 extra copies in
24 the back of the room just behind the door you
25 came in for anybody who wants them. If they run

1 out, please give me a card with your email
2 address and I'll send additional copies to you.

3 Thank you.

4 MR. BALSON: Thank you.

5 The next person on the list --
6 I'm not sure if you intend to make comments or
7 not. The name listed here appears to be M.
8 Kanze, K-a-n-z-e.

9 Whereupon,

10 MARVIN KANZE

11 testified as follows:

12 MR. KANZE: My name is Marvin
13 Kanze. I'm the oldest heating, cooling
14 contractor in the Delaware Valley.

15 I'm appalled at some of these
16 regulations that allow builders to do what they
17 do.

18 We try to install the most
19 efficient equipment manufactured. But we can't
20 -- can't guarantee results in a house or a
21 building of any sort that isn't built properly,
22 insulated well, proper amount of glass, the
23 whole nine yards.

24 So what's proposed here, I
25 believe, is a waste.

1 MR. BALSON: Thank you.

2 The next person on the list here
3 that has indicated they'd like to comment is
4 Michael Fink from the Department of Licenses and
5 Inspection for the City of Philadelphia.
6 Whereupon,

7 MICHAEL E. FINK

8 testified as follows:

9 MR. FINK: Thank you.

10 Good afternoon, everyone.

11 My name is Michael Fink. I'm
12 Director of Construction Services with the City
13 of Philadelphia.

14 We have some specific comments
15 that we'll be submitting. I just wanted to make
16 a general observation.

17 Labor and Industry has a
18 tremendous task in front of them in implementing
19 and enforcing and managing the code enforcement
20 across the state. And it just seems like you're
21 making it even more difficult by micro-managing
22 some of the things that all of the jurisdictions
23 will have to do.

24 Just a general note. This is the
25 administrative code for the City of

1 Philadelphia. The actual code portion is only
2 about 33 pages and includes the administrative
3 work for licenses and things like that. We put
4 it in a fancy binder so we can charge \$15.00
5 bucks for it. But ---

6 What we do with these things is
7 the regulations are -- as we see, is to set
8 forth the certain things that you want to occur
9 and not how to go about doing it. Those would
10 be better off as established as guidelines for
11 municipalities that haven't done this before.
12 And, perhaps, if you let municipalities that
13 have experience in this be able to continue to
14 implement the procedures that they use now.

15 Thank you.

16 MR. BALSON: Thank you.

17 Todd Meltsch from the
18 Pennsylvania Association of Code Officials.
19 Whereupon,

20 TODD MELTSCH

21 testified as follows:

22 MR. MELTSCH: Good afternoon.

23 My name is Todd Meltsch. I'm
24 currently employed as a building inspector for
25 the Borough of Kutztown, which is located in

1 Berks County. And I am also serving as the
2 immediate past president of the Pennsylvania
3 Association of Code Officials.

4 We have written comments that we
5 will submit. However, there are two issues that
6 I, myself, along with some of our members of our
7 organization wanted to get a little more
8 clarification on and maybe some modifications
9 that were written in this draft.

10 The first one was specifically --
11 there were a number of occasions with a building
12 code official or inspector was listed
13 specifically under sections four-oh-three-point-
14 eight-one (403.81), which was dealing with stop
15 work orders, section four-oh-three-point-eight-
16 two (403.82), which dealt with notice of
17 violations, section four-oh-three-point-A-three
18 (403.A3), which was ordered to vacate unsafe
19 buildings or structures, and also four-oh-three-
20 point-eight-four (403.84), which dealt with
21 unsafe structures.

22 The way the text is written it
23 states that the building code official has to
24 enforce this or has to post the stop work
25 orders. There's a lot of municipalities out

1 there where your building code official may send
2 out his designee, perhaps a permit clerk,
3 perhaps a code enforcement or a housing
4 inspector, and doesn't need to have these
5 requirements. I think we need to be a little
6 more specific and clarify that. The code
7 official shall cause to post the stop work
8 order, or that he should be allowed to send out
9 a designee.

10 Specifically, as electrical
11 inspection agencies were employed -- we have a
12 contractor, a third-party. If my third-party
13 electrical inspector goes out and sees something
14 unsafe, I don't want to be the one to go out and
15 post that unsafe connection. I want my
16 inspector to do it that we have contract with.
17 So I think just a little clarification on that
18 point.

19 The second thing is just the
20 requirements for the certificate of use and
21 occupancy. Under section four-oh-three-point-
22 six-four-subsection b (403.64b), that deals with
23 the residential requirements. If you just look,
24 there are a list of items required on that CO.
25 They differ from the ones that are required for

1 commercial under section four-oh-three-point-
2 four-six-letter b (403.46b). I think it would
3 make a lot more sense if we just had one
4 certificate of use and occupancy. I don't see
5 the need to have two separate CO's. Let's make
6 it simple. Let's get one form and have one CO
7 for all structures that are built in this
8 Commonwealth or any -- any structures that fall
9 under the provisions of this.

10 That's pretty much it.

11 Thank you.

12 MR. BALSON: Thanks, Todd.

13 The next person is Bob Duncan
14 from the Pennsylvania Association of Code
15 Officials.

16 Whereupon,

17 ROBERT E. DUNCAN

18 testified as follows:

19 MR. DUNCAN: Good afternoon.

20 My name is Bob Duncan. I'm the
21 current President of the Pennsylvania
22 Association of Code Officials. I'm also the
23 Director of Building and Planning for Lower
24 Merion Township. I'm here on behalf of both
25 organizations.

1 As Todd had indicated, the PACO
2 has submitted our written comments, which
3 includes 20 different recommendations for
4 modifications or deletions that we think are
5 important. The members that are here today will
6 speak to just the -- what we thought the more
7 important sections that needed to be addressed.
8 And I have a few that I would like to comment on
9 here.

10 The first is the four-oh-three-
11 point-two-one (403.21). It incorporates the
12 adoption of the International Electrical Code.
13 One of our concerns is that code includes both
14 administrative and code standards. We thought
15 it would be confusing for inspectors to have to
16 go to the NEC and to the ICC for code standards.
17 So our recommendation is just -- the
18 administrative standards of the ICC and let the
19 National Electrical Code be the code standards
20 that are applied throughout the Commonwealth.

21 Another section we had concern
22 with is four-oh-three-point-two-six (403.26).
23 This indicates that Chapter one of the IBC is
24 not included in these rules. One of our
25 questions is: what impact does that have? Does

1 it prohibit a local jurisdiction from adopting
2 Chapter one? And, if there were a conflict with
3 the IBC Chapter one and the proposed rules, how
4 would that be addressed?

5 The code also -- the rules also
6 address under four-oh-three-point-four-two
7 (403.42) -- when a permit is required and gets
8 into a number specific when a permit is both
9 required and not required. Our recommendation
10 is that the IBC already addresses when a permit
11 is required, and to let that take the
12 requirements for permits.

13 There are other concerns. If you
14 do proceed to leave these provisions in place,
15 the specific provisions for retaining laws
16 requires a permit for any wall that's more than
17 four feet with a measurement beginning at the
18 footing. So, basically, any retaining wall more
19 than one foot above grade would require a
20 permit. Our recommendation there is that only
21 walls that are four feet above grade or
22 something lower that has some additional load to
23 it be required to obtain a permit.

24 That's all I have.

25 MR. BALSON: Thank you.

1 The next person is Lee Milligan
2 representing PACO and Upper Providence Township.
3 Whereupon,

4 S. LEE MILLIGAN

5 testified as follows:

6 MR. MILLIGAN: Thank you.

7 My name is Lee Milligan. And I'm
8 representing the Pennsylvania Association of
9 Code Officials and Upper Providence Township.

10 I'd like to thank L&I for the
11 opportunity to make this presentation today. I
12 will try and be brief. As Bob had indicated, we
13 have just -- we're just touching on some high
14 points of our letter.

15 The first thing I would like to
16 touch on is section four-oh-three-point-six-
17 three-h (403.63h), which is a requirement that
18 the local municipal code official provide the
19 lender and the owner with a copy of the final
20 inspection. That is typically not how it
21 happens in the field. Our permit holder is
22 typically the builder. We do not find out who
23 the lender is ever in most cases. And we don't
24 find out who the owner is until a day or two
25 before settlement. This notification should

1 either be the responsibility of the builder or
2 the permit holder, or it should be just a matter
3 of public record. Those records are public
4 records. And the owner or the lender or anyone
5 else can come in to our office and look up this
6 information.

7
8 The other issue I would raise
9 would be under section four-oh-three-point-one-
10 two-one (403.121), the Board of Appeals. In the
11 regulations, it references a section five-oh-
12 one-c (501c) of the Act, which, in turn, goes
13 back to the 1999 BOCA Code. It is our
14 recommendation that you just include the text of
15 the composition of the Board of Appeals from the
16 1999 BOCA Code in the regulations. A number of
17 us never adopted the '99 BOCA, don't have copies
18 of it in their office, and for as much as
19 Rowland would like to sell us books, we -- if
20 they were included in the regulations, it would
21 be much better.

22 I have a couple of issues that
23 are not included on the letter that PACO will be
24 submitting. And they have to do with non-
25 municipal enforcement and the whole third-party
issue. I would like to recommend that counsel

1 for L&I take a look at the police powers that
2 are being bestowed upon third-party inspection
3 agencies. Based on your regulations, it would
4 appear that they have the ability to issue
5 permits, which may or may not be a municipal
6 responsibility. It would also involve the
7 issuance of stop-work orders and other punitive
8 measures that are typically taken by municipal
9 offices. And I certainly believe that the
10 third-party agencies have to have some authority
11 to enforce their inspections. But I think there
12 may be a legal issue there that may mandate some
13 review by counsel.

14 One of our suggestions concerning
15 this is -- and this may be difficult as a
16 suggestion to accomplish. But there should be
17 some provision that allows a third-party to
18 start and finish the project to avoid shopping
19 the inspection, so to speak, where an individual
20 builder may get an inspection report that he
21 doesn't agree with and he goes to brand X as an
22 inspector and gets one that he, you know, he's
23 more -- he likes better and it doesn't cost as
24 much. So I think there should be some
25 provisions included. Starting and ending with

1 one inspector may be difficult to do because
2 sometimes third-parties have limited scope of
3 work. Maybe just electrical or whatever. But
4 it's certainly a suggestion that we think should
5 be looked into.

6 That's about it.

7 Thank you very much.

8 MR. BALSON: The next person on
9 the list is -- I'm still not sure if you want to
10 make a public oral comment -- is Jay DePaul.

11 VOICE: Yes. That's EPA. We'll
12 be submitting written comments.

13 MR. BALSON: Okay. Thank you.

14 Randy Haines.

15 Whereupon,

16 RANDOLPH L. HAINES

17 testified as follows:

18 MR. HAINES: Good afternoon.

19 My name is Randy Haines. I'm the
20 President of the Delaware Valley Chapter of the
21 Association of Energy Engineers. I'd like to
22 state on the energy code piece.

23 Just a brief introduction. The
24 Association of Energy Engineers has 8,000
25 members nationally. We have 350 members

1 locally. And our Board has endorsed
2 implementation of the ASHRAE 90.1-1999 Standards
3 as a minimum.

4 AEE is a group of 8,000
5 professionals committed to helping their firms
6 or clients to increase energy efficiency,
7 utilize energy service options, enhance
8 environmental management programs, upgrade
9 facility operations, and improve equipment
10 performance, while at the same time bolstering
11 their organizations bottom line.

12 The Department of Energy ruled on
13 July 15th of this year that all states must meet
14 the requirements of ANSI/ASHRAE Standard 90.1-
15 1999. And we expect the state of Pennsylvania
16 to meet these requirements as a minimum.

17 We recommend further that the
18 state of Pennsylvania demonstrate its commitment
19 to energy efficiency by adopting the current
20 standard, 2001. The states of New Jersey and
21 Delaware of already adopted the 1999 code.

22 The 1999 code gives the owners a
23 lot of latitude. It's not overly restrictive.
24 And it's fairly easy to use.

25 It's anticipated that our energy

1 use in this country will increase by 30 percent
2 in the next 18 years causing the building of
3 more power plants and adding to the pollution
4 problem. So, by adopting this code, it will
5 certainly help slow down the rate of growth of
6 new power plants.

7 The 1999 code also makes economic
8 sense. There's a good return on investment for
9 builders and owners.

10 The standard -- the 1999 standard
11 versus the '89 standard keeps up with the
12 technological advancements as far as like new --
13 centers and new efficient lighting. It doesn't
14 overburden design engineers and/or building
15 owners.

16 So, in general, the code is not
17 overly burdensome. It will help reduce our
18 power consumption. And it will help the
19 building owners.

20 Thank you.

21 MR. BALSON: Bruce -- I'm sorry
22 if I pronounce your last name incorrectly --
23 Shoop.

24 VOICE: East Norriton Township.
25 We'll submit comments.

1 MR. BALSON: Thank you.

2 Bob Loeper.

3 Whereupon,

4 ROBERT F. LOEPER

5 testified as follows:

6 MR. LOEPER: Good afternoon.

7 My name is Bob Loeper. I'm code
8 official for Radnor Township, Delaware County.
9 And I also serve on the Board of Directors of
10 the Pennsylvania Association of Code Officials.

11 I don't want to be redundant and
12 repetitive. But I agree wholeheartedly with
13 Mike Fink's comments on the City of Philadelphia
14 when Mike suggests that those of us out here
15 that have been using code text documents for 20
16 years or more are familiar with the local
17 adoptive process. Thus, we are familiar with
18 the construction of different sections --
19 different chapters and using them to our best
20 local abilities and needs.

21 That said, I'm suggesting that
22 this administrative section published by L&I
23 should reflect more flexibility translated down
24 to the local adopting and enforcing
25 municipality. Whereas, they will have the

1 ability to reconstruct, if you will, the basic
2 code text whether it's the 2000 edition of the
3 IBC or the 2003 edition of the text. Working
4 within the specific chapters of the text seems
5 to be a very workable process for most of us
6 that have been doing it for a number of years.

7
8 There are a couple of issues I
9 have with some of the language referring to the
10 good old fire and panic act. A lot of us were
11 under the impression that the fire and panic act
12 was going to be repealed as a result of this UCC
13 Act 45 effort. And, if that's not the case, I
14 think I share the feelings with local
15 municipality enforcement agencies that suggest
16 that language for the fire and panic act in here
17 is only relevant for whatever reason the
18 department wishes with an administrative
19 section, not for local authorities choosing to
20 adopt and administer the code on their own.

21 The creation of some -- some
22 forms is not really clear. I believe the way we
23 have translated this is that the DCED will
24 creating permanent application forms and
25 possibly certificate of occupancy forms. If
that is the case, and if that's the desire of

1 the department, then we at the local level would
2 certainly appreciate every opportunity to
3 contribute to the construction of that -- of
4 those documents if we're mandated to use it.
5 And maybe the -- maybe the flexibility is built
6 in where we can create our own local documents.
7 That should be made clear.

8 Some other sections I agree with
9 -- the other comments people have offered.

10 I thank you for the opportunity
11 to speak.

12 MR. BALSON: Thank you.

13 This next name I cannot read the
14 last name at all. The first name is Ken. And
15 the last name is S-t -- Stutz?

16 MR. STRUP: Strup.

17 MR. BALSON: Strup. I apologize.

18 MR. STRUP: No problem.

19 Whereupon,

20 KEN STRUP

21 testified as follows:

22 MR. STRUP: Ken Strup, President
23 of a consulting firm dealing with facility
24 technical and professional services.

25 I have written up a couple

1 things. And, in support of some of my other
2 colleagues, we -- we basically would like to
3 bring up two issues.

4 In the quoted preamble on pages
5 seven, eight, twenty-eight referring to the
6 standards that are looking to be adopted for the
7 Uniform Construction Code, we talk about the
8 first printing. That first printing is -- of
9 the codes are out of date. We basically take
10 and recommend that that language be changed from
11 the first printing to the latest printing for
12 all codes. And, as has been exemplified just
13 talking about the energy code, if we take the
14 first printing of the -- of the ICC, we're
15 talking about ASHRAE Standard ninety-point-one-
16 nineteen-eighty-nine (90.1-1989). The latest
17 printing of the code talks about ASHRAE Standard
18 ninety-point-one-nineteen-ninety-nine (90.1-
19 1999). We shouldn't adopt codes that are 10
20 years out of date already to take and get
21 started with in a new code.

22 The second point that I'd like to
23 bring up is: from the preamble on page 28, we
24 talk about a sunset date. That's in regards to
25 the present actions that are going on here. I'd

1 like to take that one step further and enter
2 into the final rule-making, possibly under
3 administration, where the department is required
4 to adopt successor model building codes and to
5 go into a continuous monitoring of the new
6 building of model building codes that are
7 adopted by ICC and the International Codes, et
8 cetera. And, pending any other additions or
9 qualifications that the department adopt these
10 codes within one year of adoption by the
11 International Codes Committee, I'll leave that
12 to you.

13 Thank you.

14 MR. BALSON: Thank you.

15 The next person is Carl Watson.

16 Whereupon,

17 CARL M. WATSON

18 testified as follows:

19 MR. WATSON: My name is Carl
20 Watson. I'm a Pennsylvania-licensed
21 professional engineer in private practice in
22 Wynnewood, Pennsylvania. I'm speaking on my own
23 behalf and I'm not being compensated for these
24 comments by anyone.

25 My practice includes electrical

1 and energy engineering with emphasis on lighting
2 design and its application. Therefore, I work
3 with codes and technical standards in the course
4 of my business and will be subject to the rules
5 of the UCC.

6 I'm here today to address two
7 different areas of the proposed USS that are of
8 great concern to me as a design professional.

9 The first of these involves the
10 proposals to adopt the 2000 IECC, which
11 references the ASHRAE/IES ninety-point-one-
12 eighty-nine (90.1-89) Standard. What should
13 clearly be adopted instead is at least the 2001
14 or 2002 supplement, which -- both of which
15 reference the Standard ninety-point-one-circa
16 1999 (90.1-1999).

17 The reason for adopting this much
18 more up-to-date standard is as follows: the
19 1999 Standard ninety-point-one (90.1) is based
20 on currently available technology which is in
21 wide use in Pennsylvania and throughout the
22 United States.

23 The 1999 Standard ninety-point-
24 one (90.1) is written in code-enforceable
25 language and has much more simple procedures for

1 determining compliance compared to the '89
2 Standard.

3 The '99 Standard is also an ANSI
4 Standard and it is used and has been adopted by
5 adjacent states such as New York and New Jersey.
6 And they're currently using it and enforcing it.

7 The '99 Standard will also bring
8 Pennsylvania into compliance with the United
9 States Department of Energy requirements for
10 commercial buildings.

11 The Pennsylvania -- and, finally,
12 Pennsylvania has never really had an effective
13 or complete energy code prior to that which is
14 proposed in the UCC.

15 Since the adoption of the UCC
16 will necessitate local municipal officials being
17 trained in order to become proficient in
18 determining compliance, it certainly makes sense
19 to start this process with a modern, well-
20 written, up-to-date standard as the basis for
21 code -- energy code enforcement in Pennsylvania.

22 My second area of concern
23 involves the proposed adoption of the ICC
24 Electrical Code as part of the UCC. A brief
25 overview of the ICC/EC is helpful in

1 understanding why this clearly is not in the
2 best interest of anyone in the Commonwealth.

3 The ICC/EC is only, for the most
4 part, an administrative document. It does not
5 contain sufficient technical standards on its
6 own and, hence, is not adequate or complete as
7 an electrical code.

8 The ICC has been recently created
9 with the consensus, for the most part, of only
10 government officials. Those officials are the
11 only ones who can vote to amend it or update it.

12 The municipal government code --
13 excuse me -- the local municipal government code
14 enforcement officials are generally, at the
15 moment, unfamiliar with the ICC/EC. They will
16 need to change how they do business today if
17 it's adopted. This adds unnecessary expense and
18 new bureaucracy.

19 The ICC/EC is not widely used.
20 Not one state in the United States has yet
21 adopted the ICC/EC as their electrical standard
22 for code compliance.

23 Now, in contrast, a brief summary
24 of the existing National Electrical Code is
25 useful.

1 The 2002 National Electrical Code
2 contains both administrative and enforcement
3 procedures, article 80, and complete technical
4 standards.

5 The NEC was developed with input
6 from a wide variety of sources including
7 government officials, electrical inspectors,
8 design professionals, electrical workers,
9 equipment manufacturers, and many others. Its
10 amendment process allows for maximum input from
11 all interested parties.

12 The local municipal codes
13 officials are thoroughly familiar with the NEC,
14 as are many other folks such as inspectors,
15 designers, workers, electrical workers, and so
16 forth. And they've been using it and enforcing
17 it for decades.

18 And, finally, the NEC is the most
19 widely recognized and accepted electrical safety
20 code in the world. It is a national consensus
21 standard that has been in use in the United
22 States for more than 70 years.

23 Therefore, based on the above, I
24 am requesting that the Department of Labor and
25 Industry provide an alternative to the ICC

1 Electrical Code in the form of the 2002 National
2 Electrical Code, otherwise none as NFPA 70, as
3 part of its adoption of the Uniform Construction
4 Code.

5 Thank you very much for the
6 opportunity to make my concerns known.

7 MR. BALSON: Thank you for your
8 comments.

9 I believe that this concludes --
10 this last speaker concludes the list of
11 individuals that had indicated when they came in
12 here that they wanted to make comments.

13 So, at this point, is there
14 someone else who has not signed up who would
15 like to come forward and make comments?

16 Please come forward.

17 Whereupon,

18 OTIS HAIGLER, JR.
19 testified as follows:

20 MR. HAIGLER: I'm Otis Haigler,
21 Legislative Affairs Manager for the Department
22 of Licenses and Inspections, City of
23 Philadelphia.

24 I'm here to give brief testimony
25 on certain issues that the Department of

1 Licenses and Inspections has uncovered during
2 our review of the proposed rule-making for the
3 administrative and enforcement regulations.

4 Michael Fink, who came earlier,
5 pretty much generalized exactly what we feel
6 about the micro-managing of certain functions
7 that should be left to local municipalities.

8 In Philadelphia, we've been
9 enforcing codes for a very long time. I can't
10 even imagine the time period when we weren't
11 enforcing a particular code one way or the
12 other. We've been issuing permits. And the
13 size of the city that we have -- we issue
14 several thousands of permits per year. So, to
15 handicap our functions under certain provisions
16 related to applications and forms and certain
17 other issues that I think will hamper our
18 operations, we do take some exception to that.

19 But I'm here primarily to discuss
20 one area. And I did submit my -- this is the
21 written testimony -- the written comments from
22 the department.

23 But I'm here primarily to touch
24 on the area related to four-oh-three-point-two-
25 three (403.23) and all those subsections thereto

1 relating to child care type occupancy -- child
2 care home type occupancies. There seems to be
3 an inconsistency in the language between what's
4 on the regulations -- what's in the regulations
5 and what's in the IBC as to what is determined
6 to be an institution or an R3 occupancy related
7 to child care home type situations.

8 Under the IBC, if you have one
9 child in the occupancy under two-and-a-half
10 years of age, it automatically becomes some sort
11 of institution -- institutional occupancy. This
12 would -- not the occupancy -- under the
13 regulations. I'm sorry. If you have one child
14 under the age of two-and-a-half years of age, it
15 somehow becomes some sort of institution -- I4
16 type occupancy. This will greatly affect a
17 number of residential homes that we have child
18 care home type occupancy in the City of
19 Philadelphia presently. Right now, we have well
20 over 700 family day care homes in the City of
21 Philadelphia right now. And, if we tell all
22 those home operators they have to put in
23 sprinkler systems in their homes, then we're
24 going to have some problems there. So we need
25 to evaluate the consistency between the language

1 that's being proposed under the regulations and
2 the language that's currently existing in the
3 building codes that we will be enforcing.

4 Thank you.

5 MR. BALSON: Thank you.

6 And I apologize for ignoring you
7 and also getting your name wrong.

8 Is there anyone else out there
9 that would like to come forward and make
10 comments?

11 Please come forward.

12 Whereupon,

13 KEVIN A. PEZZANO

14 testified as follows:

15 MR. PEZZANO: My name is Kevin
16 Pezzano. I'm the Building Inspector for
17 Plymouth Township.

18 I just have a couple of concerns
19 that I'd like to bring up at this time. One of
20 them is the Section four-oh-three-one-subsection
21 b-paren 3 (4031b,3), which addresses the size of
22 exempt buildings. It exempts any -- basically,
23 one family dwelling -- single family dwelling
24 that has a detached garage up to 500 square
25 feet. The concern that I have is: if we're not

1 enforcing a permit to be required for that, what
2 liability does the municipality take on for a
3 one -- for a garage that's not built properly
4 that's 500 square feet if it fails. That's not
5 addressed in the code. It's not addressed in
6 the regulations. If we're not to enforce the
7 permits, where -- who's going to be responsible
8 if that things fails? What responsibility do we
9 have?

10 The other thing that Bob Loeper
11 brought up and I also want to comment on was the
12 permit application. We have permit
13 applications. It's worked perfectly fine in
14 Plymouth Township for the last 50 years. Why do
15 we have to reinvent the wheel to go with
16 something else.

17 And the other concern I have is
18 Section four-oh-three-forty-three-d (40343d),
19 which addresses the highway permits. We're
20 required to tell a permit applicant that they're
21 required to have a state highway permit. If
22 they don't get the state highway permit, are we
23 responsible to go out and enforce that as well,
24 or is the state going to do that? Or do we have
25 the provision to require that they get a highway

1 permit ahead of time before we issue their
2 building permit?

3 Those are my comments.

4 Thank you.

5 MR. BALSON: Thank you very much.

6 Anyone else?

7 VOICE: I just have a question.

8 Are these comments going to be
9 made available to the people attending or those
10 who may not be here?

11 MR. BALSON: No. They're not.

12 MS. GALLI: If someone wants to
13 request the comments or any specific comments,
14 we will make them available. But they will not
15 be available as a packet.

16 MR. BALSON: Does anyone else
17 want to make a comment?

18 Whereupon,

19 LAWRENCE G. SPIELVOGEL
20 testified as follows:

21 MR. SPIELVOGEL: Larry Spielvogel
22 again for the second time.

23 From the comments that I've heard
24 here today, despite the claims and the preamble
25 to the rule that -- quote -- the Department has

1 undertaken extensive outreach and communication
2 efforts to gain input from various affected
3 parties. The Department representatives have
4 participated in over 50 public presentations
5 with over 3,500 attendees.

6 As we say in the design business,
7 I think we have to go back to the drawing board
8 and talk to the people who have to live with
9 these rules and talk to the people that have to
10 implement them and enforce them. Because most
11 of what I've heard here today makes such good
12 common sense that I'm surprised it's not there
13 already.

14 MR. BALSON: Anybody else?

15 One of the things that I'd like
16 to suggest is that, relative to some of these
17 comments, a thorough reading of the statute
18 would inform you about what the department's
19 leeway is or ability is to modify code
20 requirements. And you will find in the statute
21 that we have been given very little authority to
22 alter any standards other than the standards as
23 they are adopted in the triennial editions of
24 the code.

25 The only area where we were given

1 leeway was elevator standards. We wrote
2 basically our own standards because that's
3 primarily a department responsibility.

4 Just to point that out to you
5 that sometimes we're being accused of doing
6 something when actually we don't have the
7 authority to do anything other than what we're
8 doing.

9 Whereupon,

10 KEN STRUP

11 testified as follows:

12 MR. STRUP: Ken Strup again.

13 I believe the department was
14 tasked with adopting the most up-to-date codes
15 in the preamble of the legislation and
16 elsewhere. And, based on the -- what's being
17 presented to date, the Commonwealth residents of
18 Pennsylvania are not being afforded the
19 availability of the adoption of the most up-to-
20 date codes. The ICC codes -- the building codes
21 that are available out there today.

22 And I just would like to
23 reinforce what was said here today that the
24 department, again by law, is being called out
25 for to adopt the most up-to-date codes and not

1 go backwards and adopt past -- past codes that
2 were adopted.

3 And, also again, hopefully, that
4 the department will propagate this in future
5 years and move forward in adopting the most up-
6 to-date codes.

7 Thank you.

8 MR. BALSON: Thank you.

9 Any other comments?

10 (No response.)

11 MR. BALSON: If no one else any
12 further comments, I'd like to remind you again
13 that we will be taking written comments until
14 September 23rd.

15 Thank you for coming here today
16 and for providing input on a number of issues.
17 I appreciate you doing that, especially given
18 what's going on today in terms of remembering
19 the tragic events of a year ago. And we
20 appreciate your time and your input.

21 Whereupon,

22 TODD MELTSCH

23 testified as follows:

24 MR. MELTSCH: One question, John.

25 You mentioned you'll have the

1 final formal completed by December. Is that the
2 final formal with IIRC's comments or ---

3 MS. GALLI: Yes. Well, that's
4 final formal -- the IIRC receives comments on
5 proposed regulations. That's our final formal.
6 Prior to it's being made effective, IIRC does
7 have a hearing. So it's -- we'll be submitting
8 our final formal to IIRC.

9 MR. MELTSCH: Okay.

10 MS. GALLI: We're not talking
11 about it being final --

12 MR. MELTSCH: So then IIRC will
13 comment after the December date.

14 MS. GALLI: Well, IIRC comments
15 on -- proposed. And then IIRC has a hearing on
16 the final.

17 MR. BALSON: Their comments are
18 due on the 25th of October. And then we do a
19 rewrite, resubmit, and they would hold a public
20 hearing before finalizing the reg.

21 Thank you again for coming.

22 That concludes the meeting.

23 (Whereupon, the hearing was
24 adjourned at 3:55 p.m.)

25

C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were reported stenographically by me, and thereafter reduced to typewritten form by me or under my direction, and that this transcript is a true and accurate record to the best of my ability.

COMMONWEALTH REPORTING COMPANY, INC.


N. C. Mahone, CVR-CM

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FORM 2

Original: 2283

QUEST
7 Ben Franklin Parkway
Philadelphia, PA 19103

RECEIVED
2010 OCT 23 PM 1:55
REVIEW COMMISSION

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

Dear Mr. Sludden:

The undersigned organizations write to express our objection to the proposed regulations adopting a Uniform Construction Code for the Commonwealth of Pennsylvania. If adopted, these regulations will significantly affect the supply of affordable child care, especially for infants and toddlers for whom care is already in short supply.

Section 403.23 of the proposed regulations would create new building standards for family and group child care programs. 403.23(b) would require a family child care home in which care is provided to 6 children to meet commercial building standards, either as an Educational use or I-4 use, depending on the age of the child. This regulation modifies current practice, in which both Department of Public Welfare (DPW) regulations and local building codes allow care for up to 6 children in a family child care home as a residential use.

Section 403.23 (d) would require a group child care home, in which care is provided to 7 to 12 children, to meet the more stringent I-4 requirements if one of those children is under 2 and ½ years of age.

Finally, by adopting the International Building Code (IBC), all new child care centers in which care is provided for 6 or more 2 ½ year old children would need to meet the I-4 construction standards. These standards are cost prohibitive for child care programs and will severely affect the supply of child care programs in the future.

We believe the construction code should be consistent with DPW family child care regulations, which allow up to six children in a home. DPW regulations are based upon sound research in health and safety practice. In addition, DPW regulations limit the number of infants in a family home to 2, which helps to ensure safe exit in case of fire.

The proposed regulations are also more restrictive than those recommended in Caring for Our Children, promulgated by the American Academy of Pediatrics, which is the industry standard for child care programs nationally.

The group regulations are more restrictive than the International Building Code. The IBC requires child care centers to meet I-4 requirements if they serve more than 5 children under 2 1/2, not one as is suggested in this rulemaking. In fact, requirements in homes would be more restrictive than group child care in a commercial building.

Each of these provisions would create extreme hardship for child care programs and would result in fewer new family and group child care homes, and as a consequence, a decline in the

availability of care for young children. The cost of meeting the construction and fire safety provisions of the E or I-4 use groups would be prohibitive for family child care providers and for group providers who wish to care for young children. Home-based child care, whether in a family or group child care home, is preferred by many parents who appreciate the option of a less institutional, more home-like setting, especially for young children. The proposed regulations would further undermine the already precarious financial condition of home-based child care, making it less feasible for new programs to open, leaving less care for Pennsylvania's children.

We fully understand the intent of the regulations is to ensure protection of young children in out of home settings. However, we believe the proposed rules go beyond what is necessary to ensure a child or children can be safely removed in a fire. Moreover, we fear that the response will be more illegal care, hidden from any government oversight, and as a result, environments that are less safe, the opposite result of the intent of these regulations.

We urge you to reconsider these proposed regulations and would be happy to discuss it with you at your convenience.

For further information, please contact Sharon Ward at Philadelphia Citizens for Children and Youth (215-563-5848) or Terry Casey at the Pennsylvania Child Care Association (717-657-9000).

Philadelphia Citizens for Children and Youth

Pennsylvania Child Care Association

Child Care Matters

Pennsylvania Home-based Providers Association

Pennsylvania Partnerships for Children

For the Love of Children, Bucks County

Capital Area Association for the Education of Young Children

Delaware Valley Child Care Council

The Preschool Project, Philadelphia

Central Susquehanna Association for the Education of Young Children

The United Way of Berks County Child Care Initiative

The Danville Child Development Center

Maternity Care Coalition, Philadelphia

Parent-Infant Center, Philadelphia

Children's Village Child Care Center, Philadelphia

Associated Day Care Services, Inc.

Montgomery Early Learning Centers

Montgomery County Community College

Delaware Valley Association for the Education of Young Children

United Way of Lancaster County Success by Six

The Neighborhood Child Care Resource Program, Northwest Interfaith Movement

Federation Day Care Centers

Philadelphia Office of Child Care

Westmoreland County School Readiness Initiative

Cc: House Local Government Committee

House Children and Youth Committee

Department of Public Welfare

Original: 2283

IRRC

From: Sharon Ward [sharonward@pccy.org]
Sent: Monday, October 28, 2002 2:45 PM
To: IRRC
Cc: Terry Casey
Subject: RE: Regulation 12-60 (2283)



Final letter to L and
I.doc

Attached please find a copy of comments on the aforementioned regulations, adopting a uniform construction code for the Commonwealth of Pennsylvania. The comments reflect the views of the state's major child care and advocacy organizations with respect to the impact of the proposed regulations on provision of child care to Pennsylvania families.

Sharon Ward
Child Care Policy Director
Philadelphia Citizens for Children and Youth
Seven Benjamin Franklin Parkway
Philadelphia, Pa 19103
215-563-5848 x 15
www.pccy.org

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REGULATION COMMISSION



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PPMAA Director/Ex Officio

Bernard W. Lockard, Jr.
Johnstown

October 15, 2002

Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Mr. Nyce:

The Pennsylvania Petroleum Marketers and Convenience Store Association (PPMCSA), on behalf of its 500 members, submits the following comments on Department of Labor & Industry Proposed Rulemaking on the Uniform Construction Code, at 32PA.b.4127.

PPMCSA is specifically concerned with 403.21, "Uniform Construction Code". This section contains provisions which provide for additional prescriptive methods to demonstrate compliance with the "International Energy Conservation Code". Specifically, it allows for the use of the Pennsylvania Housing Research Center report entitled, "Code for the Conservation of Space Conditioning Energy for Housing in Pennsylvania: The PHRC Alternative to Chill Energy Efficiency, of the IRC [International Residential Code] 2000 for Use in Pennsylvania." For the reasons stated below, PPMCSA opposes this alternative.

First, the PHRC Alternative will have an adverse impact on the use of heating oil as a fuel source for heating. The PHRC Alternative permits a builder to forgo certain energy conservation measures as delineated in IRC if the builder uses a heating source with an annual fuel use efficiency (AFUE) rating of 90 or more. The vast majority of heating oil units will not meet this rating. This will severely limit the consumers ability to choose an energy source for their heating needs.

Second, the PHRC Alternative unfairly attempts to alter the marketplace in terms of a heating source choice. By requiring an AFUE of 90 or greater, the consumer is pushed towards natural gas or electricity. The consumer and the marketplace should decide which energy source is used and such a decision should not be mandated by regulation.

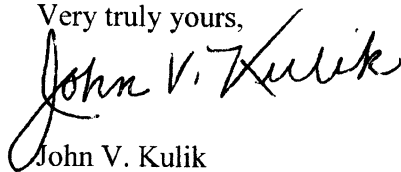
Robert E. Nyce/IRRC
October 15, 2002
Page 2 of 2

Third, in a report entitled "Eliminating Window-Area Restrictions in the IECC", and submitted to the Department of Labor and Industry at a public hearing held on the regulations, the case is made for the elimination of window area restrictions without specifying a heating source. Similar to the PHRC Alternative, this report takes into account the inflexibility of the current standard on window area restrictions and alternates to lessen that burden. It does not specify a fuel source as does the PHRC Alternative. Presumably, this was a major consideration in PHRC's rationale for creating the Alternative. It is becoming clear that the IECC may be changed in the near future. Pennsylvania should wait for that change to IECC.

Fourth, the PHRC Alternative was never openly discussed with groups that may have had a different viewpoint. The IECC was fully debated before its adoption. All interested parties had an opportunity to have input. Interested parties were not afforded that opportunity with PHRC Alternative. As such, the PHRC Alternative is flawed.

I have attached a copy of our comments delivered to the House Labor and Industry Committee for your review. Once again, PPCSMA strongly opposes section 403.21 of the UCC.

Very truly yours,

A handwritten signature in cursive script that reads "John V. Kulik". The signature is written in black ink and is positioned above the printed name.

John V. Kulik

Enclosure