



Original: 2283

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President
Charles A. Farrell
BA of Central Pennsylvania

Vice President
Roger B. Zimmer
HBA of Metro Harrisburg

Associate Vice President
Paul R. Graf
Lebanon County BA

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Director
James L. Quinn
Lawrence County BA

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

D.O.I.S.
DIRECTOR'S OFFICE
September 23, 2002

Charles J. Sludden, Jr.
Director
Bureau of Occupational and Industrial Safety
Department of Labor and Industry
1613 Labor and Industry Building
Harrisburg, PA 17120
E-mail: csludden@state.pa.us

Director Sludden:

Below please find the comments submitted on behalf of the Pennsylvania Builders Association ("PBA") in response to the PA Department of Labor and Industry's ("L & I") proposed rulemaking for the Administration and Enforcement provisions of the Uniform Construction Code. We thank you for the opportunity to assist with the development of a regulatory package that will facilitate the enforcement and administration by the Department of modern, uniform construction code standards, to be applied to all residential and commercial construction in the Commonwealth. PBA hopes that the comments and concerns raised by our members will help the Department to address the remaining deficiencies with the current proposal, and lead to the expedited finalization and adoption of the state wide standard.

Questions and Concerns:

1. A definition for the term *Third party agency* should be added to Section 401.1. This term is used throughout the regulatory package with no indication of to whom or what the term applies. PBA believes that the definition in the Training and Certification regulations should be incorporated into the definition section.
2. The definition of *Residential building* does not specify whether a basement is included, or define what is meant by the term story. There is a danger that as currently defined some larger homes and many townhouses would be classified as commercial construction. Specifying that the term applies only to those structures that are more than three stories in height above grade should eliminate this issue.
3. There is currently no provision that allows for the use of alternative construction methods or materials except for Section 403.102(c) that relates to Municipalities that elect not to enforce the UCC. Chapter 1 of the International Building Code ("IBC") contained the sections that provide a mechanism for code officials to allow new and innovative construction methods or materials that perform at a similar level to be used. PBA asks that the Department consider including language similar to that of IBC Section 104.11, Alternative materials, designs and methods of construction and equipment and Section 104.10 Modifications to the appropriate section of the proposed regulations.
4. The regulations as proposed do not have a provision that addresses the R.301.2 Climatic and geographic design criteria found in Chapter 3 of the International Residential Code ("IRC"). One of the requirements of adopting the IRC is that the criteria to be set forth in Table R301.2 (1) shall be established by the local jurisdiction and inserted. Municipalities that choose to enforce the UCC need to be directed to complete this table and make it available to permit applicants. The Department must also consider and include directions for those municipalities that do not choose



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to enforce the UCC. Would the Department set the standard in those jurisdictions, or would the third party agency be required to do so?

5. Section 401.2 Department Fees contains two Sections, (b)(xx) and (xxi), that set fees of 44 cents and 36 cents for Use group R – 1 and R – 2 respectively. PBA would ask that language be added to clarify that all construction under the IRC, including townhouse construction, be excluded from the fee schedule as proposed.
6. Section 403.47 (a) prevents a building, structure or system governed by the UCC that requires a permit to a utility, source of energy, fuel or power to be connected unless a building code official authorizes the connection. Despite the fact that R111.1 of the IRC contains similar language, the code official does not typically authorize a utility connection. The language as currently proposed creates a question of jurisdiction on a utility connection that could delay the issuance of the building permit. The question of who has ultimate jurisdiction has to be clarified.
7. PBA believes that there should be uniformity of definitions between Act No. 45, Uniform Construction Code and its supporting regulations, particularly with respect to the use of the terms construction code official and building code official.
8. The language of Section 403.82 Notice of Violation should be changed to require that a building code official shall issue a written notice of violation (“NOV”) to the permit holder. If there is a violation observed during the course of an inspection which the code official insists is corrected, written notice should be given to the permit holder. The NOV should contain a description of the violation(s) and a reference to the applicable code or ordinance section(s) that have not been met.
9. PBA recommends that the term “Permit holder” be used in the place of the terms “Permit owner” and “Permit owner’s agent”. The term permit holder is used throughout the industry and has been adopted by the IRC drafters. PBA supports the consistent use of phrases that are widely accepted throughout the building community, and opposes the creation of new terms of art when it is not necessary to do so.
10. Section 403.42 (b), (62) (b) and 101 (1) all make reference to the fact that municipalities will be required to utilize a form or forms provided by the Department of Community & Economic Development (“DCED”) as a permit application. PBA believes that DCED should make a draft copy of the building permit application form(s) available to the regulated community for review and comment prior to finalization. PBA supports the use of a standard form throughout the state and believes that uniformity with respect to permit applications cannot help but contribute to the simplification of the permit submittal process. This in turn should reduce the turn around time for permit application reviews. An opportunity to preview the form(s) before finalization could eliminate the need for municipalities to require the submittal of an addendum. When will the form be available for review?
11. Section 101(i) contains language which notes that a municipality may charge fees under Section 401.3. This section is supposed to relate to municipal and third party agency fees. A review of the document shows that there is no Section 401.3. Should the reference actually be to Section 401.2a, or some other provision?
12. PBA recommends an addendum to the current regulatory package or that the language of Section 403.101 (j) be expanded to include the level of detail regarding the process by which an aggrieved party can challenge a municipal ordinance found in Section 503 (j) (1) of Act 45 of 1999. Adopting the language found in Section 503 (j) (1) and expanding it further to specify who at the municipal level should receive the written challenge to the enactment of the ordinance would correct this oversight.
13. Section 403.101(j) notes that a municipality may only enact an ordinance containing standards that equal or exceed the UCC ...after Department review and approval. PBA would like to know how the Department’s approval will be communicated to the municipality, and whether said approval will be posted on the Department’s web page. PBA recommends that very specific language be developed and added to the regulatory proposal, language which requires that a list of all municipalities that intend to adopt ordinances be maintained on the Department’s web page during the 30 day challenge period. The Department should also maintain a list on its web site of all municipal administration and enforcement ordinances that are in effect in the Commonwealth.

14. Does Section 403.21 (a) (1) prohibit local jurisdictions from adopting Chapter 1 of the IBC? If not, the Department should clarify which provision is controlling in the event of a conflict between IBC Chapter 1 and the UCC regulations.
15. Does Section 403.21(a) (6) adopt the IRC in its entirety, including the administrative chapters? If so is it correct that the administrative provisions of the current proposed regulations, most notably Sections 403.61 – 65 relating to residential buildings apply only to permit applicants who elect to build under the IBC?
16. Why is the International Residential Code adopted and incorporated by reference as the UCC under Section 403.21 (a) (6), when Act 45 of 1999 specifies BOCA 1999 or its successor code only as the UCC? PBA would suggest that the IRC be adopted by reference, yet not incorporated as the Uniform Construction Code under Section 403.21. The IRC should be allowed to remain in force as an independent set of guidelines.
17. PBA would ask that the date by which the regulations shall include the provisions of exception 8 to Section 1014.6 (relative to stairway treads and risers) of the 1993 BOCA National Building Code, and the provisions of section R-213.1 (relative to stairways) of the CABO One and Two Family Dwelling Code, 1992 Ed. be extended indefinitely instead of ending on December 31, 2003 as is currently proposed by Section 403.21(d).
18. Sections 403.101 (k) and (l) give a municipality the authority to enact an ordinance relating to the administration and enforcement of the UCC that meets or exceeds Sections 403.42 (a) – (e) and (g) through (o); and Sections 403.62 (a) – (f). Does this apply only to permit applicants who elect to build under the IBC? Furthermore, does the Department intend that a municipality seeking to set a standard for building permit application review must provide for review in 15 days or less if it is to “meet or exceed” the standard set by Section 403.62 (f)?
19. Is it correct that provisions of both Act 45 of 1999 and the administration and enforcement regulations would not be in effect during the 90 days of the initial election period? What provisions are in force during the 120 day period of time that the municipalities have to decide whether or not to adopt an ordinance and notify the Department, the UCC or whatever ordinance is in effect in the municipality on the “effective date” of the regulations? If there is no ordinance in effect in a municipality on the date that the regulations go into effect should the UCC be applied to new construction? If a municipality fails to adopt an ordinance and does not notify the Department within the 120 day period of time provided for in the Act and proposed by the regulations, or ever, does the UCC apply to new construction in the municipality?

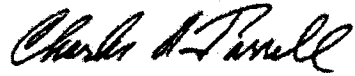
General Comment(s):

20. The PA Builders Association supports the inclusion of the PA Housing Research Center’s Alternative to the International Residential Code’s Chapter 11 *Energy Efficiency*. The PA Housing Research Center (“PHRC”) has developed a document that complies with the language of the Uniform Construction Code, Act 45 of 1999 relating to the creation of a prescriptive energy alternative. The flexibility, simplicity and ease of application of this program by builders and its ease of understanding by building officials will result in significantly improved compliance throughout the Commonwealth. The alternative code simplifies Chapter 11 by reducing the number of climatic zones from six to three, and allows for trade-offs when using high efficiency heating equipment in newly constructed homes. This alternative version of Chapter 11 of the IRC 2000 is just that, an alternative to one chapter of the IRC. It is intended to supplement the IRC and be consistent in both format and general intent. For these reasons, PBA would ask that the language contained in Section 403.21 (e) (1) of the proposed regulatory package be retained as part of the final regulations in order to preserve this option.

Thank you for your consideration of the comments submitted on behalf of the PA Builders Association. Please be assured that our members are looking forward to the final adoption of the UCC and a continued working relationship with the Department that will accomplish the goals and objectives set by our state

legislature providing for the safety and welfare of the consumer, general public and the owners and occupants of buildings and structures in the Commonwealth.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles A. Farrell".

Charles A. Farrell
President
PA Builders Association

Original: 2283



2300 Vartan Way, Suite 103
Harrisburg, PA 17110
Phone: (717) 657-9000
Fax: (717) 657-0959
www.pacca.org

September 23, 2002

02 SEP 24 AM 11:02

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

B.O.I.S.
DIRECTOR'S OFFICE

Dear Mr. Sludden:

I am writing on behalf of the child care community 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 which runs counter to the design many community local planning groups are developing.

PACCA is a state wide, nonprofit 501 c 3 organization that represents the over 4,100 family day care providers, 750 group providers and 3,950 child care centers in the Commonwealth. Although many of these providers might be "grandfathered", they would be affected if they were to expand within the same building or to a new location and these proposed changes were to be in place.

Communities that are seeing a growth in population and/or new business development need high quality child care. The child care industry works on a parent fee system based on the age of the child; parents can expect to pay as much or more for one year of infant care than they would for one year of college tuition. Because of the building costs associated with these code changes, providers would need to increase the fee they charge parents. Young parents, not at their peak earnings, simply cannot afford increases in child care. PACCA predicts that if these regulations are implemented, parents would opt to use unregulated or unlicensed care for their children. Often this neighbor-relative care is not reliable, nor is it of the quality that pre-schoolers need to help them get ready for school.

Though the intent of these proposed changes is to create a safer environment, the reality is that it could do just the opposite for our youngest citizens who need child care.

We suggest that the regulations currently defined under Title 55 of the Public Welfare Code be maintained for child care providers.

Thank you for the opportunity to respond, if you have any questions please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Terry Casey".

Terry Casey
Executive Director

Pennsylvania Child
Care Association

"Serving Pennsylvania's
Child Care Professionals"



PENNSYLVANIA Associated Builders and Contractors, Inc.

Rapho Business Park, 135 Shellyland Road
Manheim, PA 17545
(717) 653-9804 Fax: (717) 653-6431

Original: 2283

September 23, 2002

Central PA Chapter
P.O. Box 565
Milesburg, PA 16853
(814) 353-1999

Mr. Jon Balson
Pennsylvania Department of Labor & Industry
7th & Forester Street
1700 Labor & Industry Building
Harrisburg, PA 17120

Cumberland Valley Chapter
319 W. Howard Street
Hagerstown, MD 21740
(301) 739-1190

Dear Mr. Balson:

Eastern PA Chapter
1635 Airport Road, Suite 5
Allentown, PA 18109
(610) 865-5303

On behalf of the six chapters, 1,700 members, and over 50,000 employees of the Pennsylvania Associated Builders & Contractors, Inc. (PA ABC), I wish to take this opportunity to express several concerns regarding the proposed Uniform Construction Codes developed by the Pennsylvania Department of Labor & Industry for implementation in 2003. These concerns include the proposed approval process, the job site inspections proposal, and the building code official approval with public utilities prior to connection.

Keystone Chapter
Rapho Business Park
135 Shellyland Road
Manheim, PA 17545
(717) 653-8106

Proposed Approval Process

Southeast PA Chapter
1000 Germantown Pike
Suite A5
Plymouth Meeting, PA 19462
(610) 279-6666

Under section 403.43 (a), the review/ approval process for designs by the department of Labor & Industry is proposed to take a maximum of thirty (30)-days to complete. Under this new provision, for approval, construction plans will have to be mailed in and then over the course of a month, the plans will be reviewed and changes will be recommended. Once the changes recommended, returned, and made, the plans have to be re-mailed to L&I for another approval that could take up to another month. Currently, plans are reviewed and changes are made in one day. This is a drastic change in the approval process and one that will ultimately slow the process and increase the time frame of moving construction projects forward. Is there a way this process could be streamlined and the timeframe reduced?

Western PA Chapter
3500 Spring Garden Avenue
Pittsburgh, PA 15212
(412) 231-1446

Job Site Inspections

Under section 403.45, the language regulating inspections on construction jobs seem to encourage surprise inspections. It is written in this section that

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officials may inspect construction during working hours. This language is vague and could result in several different interpretations. In current code inspections, the contractor normally gives 24 hours notice to the inspector for a required inspection. This enables the contractor to keep his/her schedule and plan accordingly for the inspection to occur. A surprise inspection will take time away from the coordinated construction schedule and will ultimately result in unnecessary project delays and increased costs. Could the current method of scheduled inspections continue?

Building Code Official approval with Public Utilities Prior to Connection

Section 403.47 requires a building code official to authorize the connection to public utilities on construction projects. Currently, a building code official is not needed to be a broker for the public utility connection and the coordination is done between the contractor and the public utilities with the building code official involved, but not the "go ahead" person. This change will increase the amount of bureaucracy to an already burdensome process. Is this change really necessary?

Having these changes addressed and remedied could help to ease the problems with the implementation of the proposed building codes and make this upcoming transition easier than expected.

If you have any questions, please call me at 717.653.8106 or e-mail at hank@abckeystone.org.

Thank you in advance for your assistance.

Sincerely,

Hank Butler
Government Affairs
ABC, Pennsylvania

While Allegheny General Hospital, West Penn Hospital and the West Penn Allegheny Health System fully support the adoption of a uniform construction code to provide consistency in standards for construction and renovations throughout the commonwealth, we have significant concerns regarding the impact that the proposed regulations would have on health care facilities.

I think it is important to note that as the proposed legislation was being drafted, the Hospital and Health System Association of Pennsylvania (HAP) lobbied for the inclusion of language which would allow for the Department of Labor and Industry to delegate its responsibility for conducting plan reviews and inspections for health care facilities to the Department of Health.

HAP advocated for this amendment to ensure that health care facilities, which as an industry are probably one of the most regulated, would not be subjected to undue administrative burden of submitting plans, scheduling inspections, etc. with multiple state departments, and to ensure that such activity fell under the authority of the state department most familiar with the various regulatory mandates imposed on health care facilities. It seemed logical that the Department of Health should be the state entity to have direct oversight for ensuring compliance with the uniform construction code requirements in addition to their current oversight as it relates to licensure, construction and life safety code requirements of health care facilities.

As proposed, these regulations present administrative confusion and would be a regulatory burden for health care facilities. Further, the proposed fee schedule imposes a significant cost impact at a time when seven in 10 hospitals in Pennsylvania lost money on patient care in fiscal year 2001, and more than one-quarter are at even greater risk, with negative total margins.

Administrative Confusion and Regulatory Burdensome

The proposed regulations will require coordination between the Department of Health, Department of Labor and Industry, or the local municipality or third-party contractor who elects to enforce the uniform construction code. The regulations do not provide for a defined process for health care facilities to follow in seeking plan review/approval, inspections and issuance of the occupancy certificates in which both Department of Health and Department of Labor and Industry must partake. Without a defined process the proposed regulations confuse those who are to be guided by the regulations. Without a defined process examples of the administrative confusion presented by the proposed regulations include the following:

- Facilities will be faced with where to submit plans for review/approval first – Department of Health for compliance with Life Safety and hospital licensure requirements or Department of Labor and Industry for compliance with the Uniform Construction Code?
- Will facilities need to re-submit plans based on changes made/required by one state agency or the other?

- How will the inspection process take place given the multiple entities involved during each phase of a said construction project?
- Which agency has final approval before occupancy given that the proposed rule appears to imply that issuance of the certificate of occupancy is done by the Department of Labor & Industry when Department of Health currently is the “final” approval before occupancy?

Cost Impact

There is also extreme concern regarding the cost impact of the fee schedule proposed by the Department of Labor and Industry for the review/approval of plans submitted to assure compliance with the uniform construction code.

For example, currently, an 11,000 square foot addition and a 2,650 square foot renovation of existing space to provide for an expanded cardiac catheterization suite with an estimated construction cost of \$4,184,000 would result in a cost of approximately \$757.00 which is paid to the Department of Health for their review/approval of health care facility specific requirements.

The fee schedule proposed by the Department of Labor and Industry would result in an increase of payment for plan review/approval for a total payment of \$51,605 for that same 13,650 square foot construction/renovation project.

The current cost for plan review/approval by the Department of Health imposes a base fee of \$75 *plus* the lower of the following two options:

\$5.00 per 100 sq ft **OR** \$5.00 per \$1,000 of construction cost.

Administratively confusing, burdensome and cost prohibitive regulations shift the focus of providing and improving the delivery of health care services to patients by diverting limited resources to address and comply with regulatory mandates. Patients and their communities are the ones ultimately affected when regulations are complicated, duplicative and cost prohibiting.

Allegheny General, West Penn and the West Penn Allegheny Health System would encourage the Department of Labor and Industry to reconsider the impact the proposed regulations would have on health care facilities given the lack of defined process and costs. We recommend that the proposed regulations be revised so that the Department of Health would be the state entity to have direct oversight for ensuring compliance with the uniform construction code requirements in addition to their current oversight as it relates to licensure, construction and life safety code requirements of health care facilities.

We strongly urge you to consider the above issues to ensure that fair and appropriate standards (with a defined process/procedure) are adopted.

PENN • DEL • JERSEY CHAPTER

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September 23, 2002

Charles J. Sludden, Jr., Director
Bureau of Occupational and Industrial Safety
PA Department of Labor and Industry
1613 L & L Building
Harrisburg, PA 17120

Re: **Comments to Proposed Adoption of International Codes**

Dear Director Sludden:

This letter is written to formally comment on the adoption of electrical standards in the Commonwealth of Pennsylvania. As Executive Director of the Penn-Del-Jersey Chapter of the National Electrical Contractors Association, I represent one hundred and fifty (150) Electrical Contractors, employing approximately ten thousand (10,000) electricians performing over fifteen million (15,000,000,000.00) man-hours and grossing approximately four hundred million dollars (\$400,000,000.00) of electrical payroll work in the Commonwealth each year.

The two (2) different electrical standards (one for commercial ("ICCEC") and one for residential ("IRC")) considered for adoption will create, if accepted, a tremendous amount of confusion on the part of electricians, contractors and inspectors. The National Electrical Code is the cornerstone of our Industry, as it represents a standard of installation for all occupancies and is updated every three (3) years by a consensus process with significant and substantial public input. For these reasons, most jurisdictions have chosen not to adopt the electrical provisions of the IRC, and instead substitute the NEC (or its equivalent, the ICCEC).

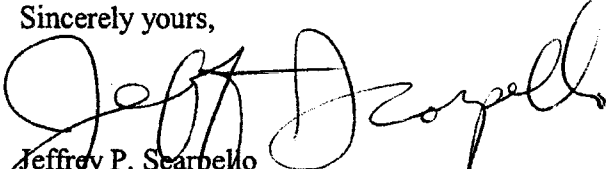
My comment, in the form of an amendment to the proposal, is as follows:

The IRC is adopted as the building code for residential construction except for electrical wiring and related components, which will be governed by the ICCEC.

Charles J. Sludden, Jr., Director
September 23, 2002
Page 2

Please contact me should you have any questions or concerns.

Sincerely yours,



Jeffrey P. Scarpello
Executive Director

JPS:lw

Original: 2283

Sludden, Charles

From: MARAUDER92@aol.com
Sent: Monday, September 23, 2002 6:40 PM
To: csludden@state.pa.us
Subject: DPW regulations

This is in response to your proposed changes in L&I requirements as it applies to family/group homes. On behalf of Family Child Care Associates of the Lehigh Valley, an association of family and group home providers in the Allentown-Bethlehem-Easton area, we want to inform you we are opposed to your proposed changes. At a time when the State is launching a quality initiative program, Keystone Stars, you want to make it more difficult for a provider to become regulated. These proposed changes will make it much more difficult to encourage providers to become part of a regulatory system since it will put undue financial hardships on family child care providers, and limit infant/toddler care in group homes. The only thing you will accomplish is creating another wave of providers disappearing and going underground where the other 80% of providers are already. No one wanted to listen to us in 1993, so please seriously consider the ramifications of these changes. It certainly will not improve the quality of care Pennsylvania offers!

Sincerely,
Carol Steely
President FCCALV
450 Arlington St
Easton PA 18045
610-253-7721
CASECE81@AOL.COM

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9/24/2002

Original: 2283

Sludden, Charles

From: Annie Lite [annieskids@yahoo.com]
Sent: Monday, September 23, 2002 2:03 PM
To: csludden@state.pa.us
Subject: Codes regarding family child care

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. Specifically, we object to the provisions relating to family and group child care programs. 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 six 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 DPW regulations and local building codes allow care for up to six 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 =BD years of age.

We believe the construction code should be consistent with Department of Public Welfare (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 two, which helps to ensure safe exit in case of fire.

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 five 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.

Both of these provisions would create extreme hardship for child

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DEPARTMENT OF PUBLIC WELFARE

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 ensure protection of young children in out of home settings. However, we believe the proposed rules go beyond what is necessary to ensure child 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.

Thank you for your time in this matter.

Sincerely,

Ann Luscan

Luscan Family Day Care

621 Fairview Street

Pottsville, Pa 17901



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Email: jjk2220@aol.com

B.O.I.S.
DIRECTOR'S OFFICE

September 23, 2002

Mr. Charles J. Sludden, JR., Director
Bureau of Occupational and Industrial Safety
PA Department of Labor and Industrial Safety
1613 L&I Building
Harrisburg, PA 17120

RE: Proposed Electrical Codes of the
Pennsylvania's Uniform Construction Code

Dear Mr. Sludden,

As a member of the Electrical Construction Design and Engineering Industry for over 38 years, I must take this opportunity to insist on a consistent, unified electrical standard. I am in opposition to the proposed adoption of a separate International Electrical Code for Residential Construction (IRC), in lieu of the full use of only NFPA-70, the National Electrical Code (NEC) and related Articles.

I recommend changing the IRC chapters for electrical standards to reference instead the adopted ICC Electrical Code (NEC) similar to Oregon and Montana, so we have one standard code for base reference not different occupancies standards, this would assure wiring safety, quality, efficiency, cost and effective uniform training. New Jersey has had a State wide Uniform Construction Code since 1973 and it has work wonders within the Construction Industry and for the different communities within the State.

Sincerely,



John J. Kline
Principal

drs

Original: 2283

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B.O.I.S.
DIRECTOR'S OFFICE

September 23, 2002

Charles J. Sludden, Jr.
Director
Bureau of Occupational and Industrial Safety
PA Department of Labor and Industry
1613 L&I Building
Harrisburg, PA 17120

Dear Mr. Sludden:

Tredyffrin Township currently enforces our building code and plans to elect to enforce the Uniform Construction Code (UCC). Tredyffrin Township's building department has reviewed the proposed administration and enforcement regulations for the UCC published in the Pennsylvania Bulletin on August 24, 2002 and, based on our experience, has the following comments about the proposed regulations:

Timeline: Tredyffrin Township administers the 1993 BOCA building code. The UCC regulations require municipalities that elect to enforce the statewide building code to enact an ordinance adopting the UCC as the municipal building code within 90 days of the regulations going into effect (§403.101(b)). When Tredyffrin does that, presumably some time in the first half of 2003, our building department staff will have to quickly familiarize themselves with the 2000 International Building Code, the building code incorporated in the proposed UCC regulations. In 2003, however, the International Code Council is planning to issue a new International Building Code (IBC). §304 of the UCC statute requires the Department of Labor and Industry (L&I) to promulgate regulations adopting a new national building code by the end of the year in which it is issued. If the new IBC is completed in 2003, will L&I require municipalities enforcing the UCC to adopt that code by December 31, 2003? If so, Tredyffrin's building department will have enforced three different sets of codes within the same year. Each code adoption entails a start-up period during which building code officials get acquainted with the new provisions. Two such learning periods in one year would be excessively time consuming. While it is understandable that L&I wishes to begin implementing the UCC as soon as possible, the initial success of that implementation would be greatly enhanced if existing codes could be grandfathered in until the 2003 version is finalized.

Residential certificate of occupancy: It is unclear in the proposed regulations whether certificates of occupancy will be required only for new construction and a change in the type of housing (e.g. single family to multi-family) or will also be required when new occupants move

into an existing home (§403.62(a)(1)). Requiring certificates of occupancy for all residential property transactions, with the accompanying review of plans or inspections, would impose a substantial burden on municipal staff.

Elevators and boilers: While most of the UCC adopts national standards, provisions applying to elevators and boilers are state standards that differ from the national standard. Both compliance and enforcement would be more straight forward if national standards were adopted consistently in the UCC.

Health care facilities/Health Department regulations: §403.22(f) requires municipal building code officials to distribute Department of Health requirements from the Health Care Facilities Act. Will the Department of Health assemble a document to be distributed? Will municipalities be required to do any more than notify applicants of the requirements? Please clarify what kind of municipal responsibility this provision entails.

Permit application: §403.42(n) requires *applicants* to identify on the application the name and address of the individual who will "observe" the construction to ensure it is built in accordance with the permit application and UCC. Does this provision refer to inspections? How would applicants know which municipal inspector they will be assigned? These types of ambiguous questions tend to generate a lot of questions from applicants who are not sure how to answer, which in turn takes up staff time. Please be sure to keep the required application as simple as possible.

Tredyffrin Township appreciates the opportunity to comment on these proposed regulations. If you have any questions, please contact Mimi Gleason, Assistant Manager, at 610-408-3602.

Sincerely,

Joseph A. Janasik
Township Manager

cc: Senator Robert Thompson
Representative Carole Rubley

Original: 2283

Sludden, Charles

From: Patty Graff [pag18@psu.edu]
Sent: Monday, September 23, 2002 4:49 PM
To: csludden@state.pa.us
Subject: Proposed changes to LI regulations for Family Child Care

02 SEP 24 AM 5:50

B.O.I.S.
DIRECTOR'S OFFICE

Dear Mr. Sludden,

I am writing as a former Family Child Care Provider. I am very upset by the proposed regulations that would greatly restrict people who want to open their homes to children and families. I am a strong advocate for family providers becoming legally registered. I understand the need to ensure safety for all. I believe that abiding by the safety standards under the current regulations and still maintaining a home like atmosphere is comfortable. If we lower the enrollment to 5 now will it be 4 next year? People are doing this for many varied reasons, foremost to be at home. If we take their income away we take away the choice of many families who want this type of care. NOT all children should or can be cared for in centers.

I have recently been awarded a grant to work specifically with Home Providers. My hope is that I would, due to my work, encourage more people to realize the importance of these safety measures. There are already numerous homes operating illegally, some because of "government bureaucrats" as they see it, others because they are uneducated. My program would help to pass this education along with the help of established providers. If the proposed regulations pass, it only follows that people will continue to operate "under the table". Are you planning to increase your staff to police neighborhoods to see how many children will end up in these unregulated homes? Do you have the staff now? We are in the midst of government cutbacks. I highly doubt that new positions will be created. I truly understand you are thinking of the safety of these children. We are too. We also know you will just create a much bigger problem. It is a problem that we, in the family child care field, have been strenuously working to improve. Please help us help you.

Patty Graff
Better Kid Care Coordinator
Westmoreland County

RECEIVED
09/24/02

Original: 2283

Abela, Brian

From: Sludden, Charles
Sent: Monday, September 23, 2002 11:40 AM
To: Abela, Brian; Holzman, James A. (GC-LI)
Subject: FW: public comment

FYI and action

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

From: Leslie Eslinger [mailto:leslinger@dca.net]
Sent: Friday, September 20, 2002 5:44 PM
To: csludden@state.pa.us
Subject: public comment

ATTN: Mr. Sludden:

In my position as director of a child care resource program, we work closely with child care providers to offer the highest quality care possible in safe and healthy environments. The proposed code changes have come to my attention and are of great concern.

I urge your office to develop a construction code that is 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. These regulations limit the number of infants in a family home to two, which helps to ensure safe exit in case of fire.

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 five children under 2 1/2, not one as is suggested in this rulemaking.

The cost of complying with these regulations would be prohibitive for family and group providers, reducing the availability of care, especially for infants and toddlers.

The result would be more illegal care, as family providers go further underground, and less state oversight. The child care community has worked tirelessly to get providers to operate legally; this would set us back.

Thank you for attending to these concerns.

Leslie Eslinger
Director
Neighborhood Child Care Resource Program
Northwest Interfaith Movement
6757 Greene Street
Philadelphia, PA 19119

RECEIVED
SEP 23 2002
COMMUNITY DEVELOPMENT
DIVISION

9/23/2002

Original: 2283

02 SEP 25 AM 8:35

September 23, 2002

B.O.I.S.
DIRECTOR'S OFFICE

Dear Mr. Charles Sludden,

Concerning Pennsylvania's proposed electrical codes, I am taking a moment to write you this letter.

Having been working in the electrical industry for the past fifteen plus years under the National Electrical Code, I am opposed to any additional codes being introduced into my trade.

I am asking that you Amend the International Residential Code as follows:
Electrical, Chapters 33-42, shall be deleted. The provisions of the ICC Electrical Code (NEC) shall apply to the installation of electrical systems, including alteration, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto. Or that the International Residential Code is adopted as the building code for residential construction except for electrical wiring and related components which will be governed by the ICC Electrical Code.

Thank you for your time.

Rene Loubet Electric

Rene Loubet Electric
Licensed and Insured
Member IAEE, NFPA, IECA

RECEIVED
SEP 25 2002
DIRECTOR'S OFFICE



Teach. Imagine. Create. Learn.

398 Wall Street, Danville, PA 17821
570-275-4047
FAX: 570-275-3953

original: 2283

SEARCHED
INDEXED
SERIALIZED
FILED

September 23, 2002

Charles J. Sludden
Director of Bureau of Occupational and Industrial Safety
Department of Labor and Industry
7th and Forster Streets
Harrisburg, PA 17120
Fax: 717-787-8363

Dear Mr. Sludden,

I am writing to express my extreme concern with the proposed changes to the Uniform Construction Code for Pennsylvania. The proposed changes will adversely affect new family child care and group homes, as well as those expanding into larger sites.

The Department of Public Welfare (DPW) has already established family and group child care regulations that are based on sound research in health and safety practice. The DPW regulations limit the number of infants in a family home to two, which helps to ensure safe exits in the case of fire or emergency.

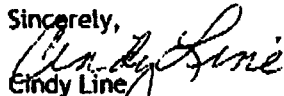
The new group regulation proposals are even more restrictive than the International Building code, which demands that child care centers meet I-4 requirements if they serve more than five children under two and a half, not one as is suggested in the new proposal.

The cost of complying with these regulations would be prohibitive for family and group providers, which will reduce the availability of care, especially for infants and toddlers. Statewide, there are many children and families who are unable to find care in their area. Do we want to further limit their options?

The result of the proposed changes would be more illegal care, as family providers go further underground to avoid the costs and requirements of state oversight. Children could, ironically end up more at risk if the regulations are adopted.

I ask that the Department rethink these proposed changes in the light of their disadvantageous effects on children and families.

Sincerely,


Cindy Line
Service Coordinator

www.danvillecdc.org





Teach. Imagine. Create. Learn.

Original: 2283

330 Wall Street, Danville, PA 17021
570-275-4047
FAX: 570-275-3953

RECEIVED
SEP 23 2002
COMMUNITY DEVELOPMENT

September 23, 2002

Charles J. Sludden
Director of Bureau of Occupational and Industrial Safety
Department of Labor and Industry
7th and Forster Streets
Harrisburg, PA 17120
Fax: 717-787-8363

Dear Mr. Sludden,

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The new group regulation proposals are even more restrictive than the International Building code, which demands that child care centers meet I-4 requirements if they serve more than five children under two and a half, not one as is suggested in the new proposal.

The cost of complying with these regulations would be prohibitive for family and group providers, which will reduce the availability of care, especially for infants and toddlers. Statewide, there are many children and families who are unable to find care in their area. Do we want to further limit their options?

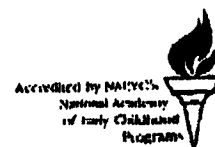
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I ask that the Department rethink these proposed changes in the light of their disadvantageous effects on children and families.

Sincerely,

Tracey Jeffreys
Tracey Jeffreys
Program Director

www.danvillecdc.org





JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN
ALVIN C. BISH, VICE CHAIRMAN
DANIEL E. CLARK, ESQ.
ARTHUR COCCODRILLI
MURRAY UEBERG, ESQ.
ROBERT E. NYCE, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL

**INDEPENDENT REGULATORY REVIEW COMMISSION
COMMONWEALTH OF PENNSYLVANIA
333 MARKET STREET
14TH FLOOR
HARRISBURG, PA 17101**

irrc@irrc.state.pa.us
<http://www.irrc.state.pa.us>
(717) 783-5417
Fax (717) 783-2664

November 3, 2003

Honorable Stephen M. Schmerin, Secretary
Department of Labor and Industry
1700 Labor and Industry Building
Harrisburg, Pa 17120

Re: Regulation #12-60 (IRRC #2283)
Uniform Construction Code; Administration and Enforcement;
Elevators and Other Lifting Devices

Dear Secretary Schmerin:

In our review of this regulation, we noted drafting errors and provisions that could be clarified. We discussed these with your staff on November 3, 2003. We recommend that you consider tolling the review period in order to make the following revisions.

1. Corrections in Section 403.102 (pages 51-53):
 - A. The last line of Subsection (i)(3) and the first line of Subsection (j) on page 51 are repeated on page 52. The repeated text should be deleted.
 - B. Subsection (l)(1) (page 52) refers to Section 403.42(b). It should also contain a reference to Section 403.42(c).
 - C. Subsection (l)(8) is at the bottom of page 52. The next page begins with Subsection (l)(12). Subsections (l)(9), (l)(10) and (l)(11) are missing and should be inserted.
2. The text in the following sections is incomplete in the final-form regulation submitted by the Department.
 - A. Section 403.23(b) strike-through language (page 18).
 - B. Section 403.42a(i) revised language (page 29).
 - C. Section 403.62(c)(6)(v) new language (page 39).
 - D. Section 405.12(l) revised language (page 73).

If you choose to toll the review period, your Department must deliver written notice to both the House Labor Relations Committee and Senate Labor and Industry Committee and the Commission on the same day. The written notice must be delivered before any Committee

action on the regulation, or before the end of the Committee's review period on November 19, 2003, whichever occurs first.

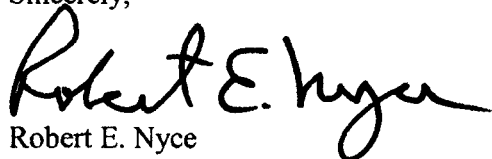
As required by Section 307.5 of our regulations, written notice must include:

1. A citation to the section(s) the Department is considering revising,
2. A description of the revisions the agency is considering, and
3. An explanation of how the revisions will satisfy the concerns listed above.

If your written notice includes revisions that are beyond the scope of our recommendations, the Commission may object to tolling the review period. We are required to notify you and the Committees within two business days after receipt of your tolling notice if we object. In the event the Commission objects to your tolling notice, the review period will not be tolled and your regulation will be considered by the Commission at our public meeting on November 20, 2003. If the Commission does not object, the review period is tolled for up to 30 days beginning with receipt of your letter and ending on the day you resubmit the regulation.

If you have any questions, please call me at 783-5506.

Sincerely,



Robert E. Nyce
Executive Director

wbg

cc: Honorable Joseph B. Scarnati, III, Chairman, Senate Labor and Industry Committee
Honorable Christine M. Tartaglione, Minority Chairman, Senate Labor and Industry Committee
Honorable Robert E. Belfanti, Jr., Democratic Chairman, House Labor Relations Committee
Honorable Bob Allen, Majority Chairman, House Labor Relations Committee
Robert A. Mulle, Esq., Office of Attorney General
David J. DeVries, Esq., Office of General Counsel
James Holzman, Esq., Deputy Chief Counsel



Teach. Imagine. Create. Learn.

Original: 2283

Danville Child Development Center
388 Wall Street, Danville, PA 17821
570-275-4047
FAX: 570-275-3953

SEP 23 2002

September 23, 2002

Charles J. Sludden
Director of Bureau of Occupational and Industrial Safety
Department of Labor and Industry
7th and Forster Streets
Harrisburg, PA 17120
Fax: 717-787-8363

Dear Mr. Sludden,

I am writing to express my extreme concern with the proposed changes to the Uniform Construction Code for Pennsylvania. The proposed changes will adversely affect new family child care and group homes, as well as those expanding into larger sites.

The Department of Public Welfare (DPW) has already established family and group child care regulations that are based on sound research in health and safety practice. The DPW regulations limit the number of infants in a family home to two, which helps to ensure safe exits in the case of fire or emergency.


The new group regulation proposals are even more restrictive than the International Building code, which demands that child care centers meet I-4 requirements if they serve more than five children under two and a half, not one as is suggested in the new proposal.

The cost of complying with these regulations would be prohibitive for family and group providers, which will reduce the availability of care, especially for infants and toddlers. Statewide, there are many children and families who are unable to find care in their area. Do we want to further limit their options?

The result of the proposed changes would be more illegal care, as family providers go further underground to avoid the costs and requirements of state oversight. Children could, ironically end up more at risk if the regulations are adopted.

I ask that the Department rethink these proposed changes in the light of their disadvantageous effects on children and families.

Sincerely,


Diana R. Dixon
Administrator

www.danvillecdc.org



Abela, Brian

From: Sludden, Charles
Sent: Monday, September 23, 2002 2:11 PM
To: Abela, Brian; Holzman, James A. (GC-LI)
Subject: FW: Final Comments to Department of Labor & Industry Due 09-23-02

FYI and action. Thanks!! Chuck

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

From: Melanie Cook [mailto:mcook@pahomes.org]
Sent: Monday, September 23, 2002 12:08 PM
To: bandf3005@aol.com; csludden@state.pa.us
Cc: David Martin; Lou Biacchi; Melanie Cook
Subject: Final Comments to Department of Labor & Industry Due 09-23-02

Charles J. Sludden, Jr.
Director
Bureau of Occupational and Industrial Safety
Department of Labor and Industry
1613 Labor and Industry Building
Harrisburg, PA 17120
E-mail: csludden@state.pa.us

Director Sludden:

Below please find the comments submitted on behalf of the Pennsylvania Builders Association ("PBA") in response to the PA Department of Labor and Industry's ("L & I") proposed rulemaking for the Administration and Enforcement provisions of the Uniform Construction Code. We thank you for the opportunity to assist with the development of a regulatory package that will facilitate the enforcement and administration by the Department of modern, uniform construction code standards, to be applied to all residential and commercial construction in the Commonwealth. PBA hopes that the comments and concerns raised by our members will help the Department to address the remaining deficiencies with the current proposal, and lead to the expedited finalization and adoption of the state wide standard.

Questions and Concern:

1. A definition for the term *Third party agency* should be added to Section 401.1. This term is used throughout the regulatory package with no indication of to whom or what the term applies. PBA believes that the definition in the Training and Certification regulations should be incorporated into the definition section.
2. The definition of *Residential building* does not specify whether a basement is included, or define what is meant by the term story. There is a danger that as currently defined some larger homes and many townhouses would be classified as commercial construction. Specifying that the term applies only to those structures that are more than three stories in height above grade should eliminate this issue.
3. There is currently no provision that allows for the use of alternative construction methods or materials except for Section 403.102(c) that relates to Municipalities that elect not to enforce the UCC. Chapter 1 of the International Building Code ("IBC") contained the sections that provide a mechanism for code officials to allow new and innovative construction methods or materials that perform at a similar level to be used. PBA asks that the Department consider including language similar to that of IBC Section 104.11, Alternative materials, designs and methods of construction and equipment and Section 104.10 Modifications to the appropriate section of the proposed regulations.

9/23/2002

4. The regulations as proposed do not have a provision that addresses the R.301.2 Climatic and geographic design criteria found in Chapter 3 of the International Residential Code ("IRC"). One of the requirements of adopting the IRC is that the criteria to be set forth in Table R301.2 (1) shall be established by the local jurisdiction and inserted. Municipalities that choose to enforce the UCC need to be directed to complete this table and make it available to permit applicants. The Department must also consider and include directions for those municipalities that do not choose to enforce the UCC. Would the Department set the standard in those jurisdictions, or would the third party agency be required to do so?
5. Section 401.2 Department Fees contains two Sections, (b)(xx) and (xxi), that set fees of 44 cents and 36 cents for Use group R - 1 and R - 2 respectively. PBA would ask that language be added to clarify that all construction under the IRC, including townhouse construction, be excluded from the fee schedule as proposed.
6. Section 403.47 (a) prevents a building, structure or system governed by the UCC that requires a permit to a utility, source of energy, fuel or power to be connected unless a building code official authorizes the connection. Despite the fact that R111.1 of the IRC contains similar language, the code official does not typically authorize a utility connection. The language as currently proposed creates a question of jurisdiction on a utility connection that could delay the issuance of the building permit. The question of who has ultimate jurisdiction has to be clarified.
7. PBA believes that there should be uniformity of definitions between Act No. 45, Uniform Construction Code and its supporting regulations, particularly with respect to the use of the terms construction code official and building code official.
8. The language of Section 403.82 Notice of Violation should be changed to require that a building code official shall issue a written notice of violation ("NOV") to the permit holder. If there is a violation observed during the course of an inspection which the code official insists is corrected, written notice should be given to the permit holder. The NOV should contain a description of the violation(s) and a reference to the applicable code or ordinance section(s) that have not been met.
9. PBA recommends that the term "Permit holder" be used in the place of the terms "Permit owner" and "Permit owner's agent". The term permit holder is used throughout the industry and has been adopted by the IRC drafters. PBA supports the consistent use of phrases that are widely accepted throughout the building community, and opposes the creation of new terms of art when it is not necessary to do so.
10. Section 403.42 (b), (62) (b) and 101 (1) all make reference to the fact that municipalities will be required to utilize a form or forms provided by the Department of Community & Economic Development ("DCED") as a permit application. PBA believes that DCED should make a draft copy of the building permit application form(s) available to the regulated community for review and comment prior to finalization. PBA supports the use of a standard form throughout the state and believes that uniformity with respect to permit applications cannot help but contribute to the simplification of the permit submittal process. This in turn should reduce the turn around time for permit application reviews. An opportunity to preview the form(s) before finalization could eliminate the need for municipalities to require the submittal of an addendum. When will the form be available for review?
11. Section 101(i) contains language which notes that a municipality may charge fees under Section 401.3. This section is supposed to relate to municipal and third party agency fees. A review of the document shows that there is no Section 401.3. Should the reference actually be to Section 401.2a, or some other provision?
12. PBA recommends an addendum to the current regulatory package or that the language of Section 403.101 (j) be expanded to include the level of detail regarding the process by which an aggrieved party can challenge a municipal ordinance found in Section 503 (j) (1) of Act 45 of 1999. Adopting the language found in Section 503 (j) (1) and expanding it further to specify who at the municipal level should receive the written challenge to the enactment of the ordinance would correct this oversight.
13. Section 403.101(j) notes that a municipality may only enact an ordinance containing standards that equal or exceed the UCC ...after Department review and approval. PBA would like to know how the Department's approval will be communicated to the municipality, and whether said approval will be posted on the Department's web page. PBA recommends that very specific language be developed and added to the regulatory proposal, language which requires that a list of all municipalities that intend to adopt ordinances be maintained on the Department's web page during the 30 day challenge period. The Department should also maintain a list on its web site of all municipal administration and enforcement ordinances that are in effect in the Commonwealth.
14. Does Section 403.21 (a) (1) prohibit local jurisdictions from adopting Chapter 1 of the IBC? If not, the Department should clarify which provision is controlling in the event of a conflict between IBC Chapter 1 and the UCC regulations.
15. Does Section 403.21(a) (6) adopt the IRC in its entirety, including the administrative chapters? If so is it correct that the administrative provisions of the current proposed regulations, most notably Sections 403.61 - 65 relating to residential buildings apply only to permit applicants who elect to build under the IBC?

16. Why is the International Residential Code adopted and incorporated by reference as the UCC under Section 403.21 (a) (6), when Act 45 of 1999 specifies BOCA 1999 or its successor code only as the UCC? PBA would suggest that the IRC be adopted by reference, yet not incorporated as the Uniform Construction Code under Section 403.21. The IRC should be allowed to remain in force as an independent set of guidelines.
17. PBA would ask that the date by which the regulations shall include the provisions of exception 8 to Section 1014.6 (relative to stairway treads and risers) of the 1993 BOCA National Building Code, and the provisions of section R-213.1 (relative to stairways) of the CABO One and Two Family Dwelling Code, 1992 Ed. be extended indefinitely instead of ending on December 31, 2003 as is currently proposed by Section 403.21(d).
18. Sections 403.101 (k) and (l) give a municipality the authority to enact an ordinance relating to the administration and enforcement of the UCC that meets or exceeds Sections 403.42 (a) - (e) and (g) through (o); and Sections 403.62 (a) - (f). Does this apply only to permit applicants who elect to build under the IBC? Furthermore, does the Department intend that a municipality seeking to set a standard for building permit application review must provide for review in 15 days or less if it is to "meet or exceed" the standard set by Section 403.62 (f)?
19. Is it correct that provisions of both Act 45 of 1999 and the administration and enforcement regulations would not be in effect during the 90 days of the initial election period? What provisions are in force during the 120 day period of time that the municipalities have to decide whether or not to adopt an ordinance and notify the Department, the UCC or whatever ordinance is in effect in the municipality on the "effective date" of the regulations? If there is no ordinance in effect in a municipality on the date that the regulations go into effect should the UCC be applied to new construction? If a municipality fails to adopt an ordinance and does not notify the Department within the 120 day period of time provided for in the Act and proposed by the regulations, or ever, does the UCC apply to new construction in the municipality?

General Comment(s):

20. The PA Builders Association supports the inclusion of the PA Housing Research Center's Alternative to the International Residential Code's Chapter 11 *Energy Efficiency*. The PA Housing Research Center ("PHRC") has developed a document that complies with the language of the Uniform Construction Code, Act 45 of 1999 relating to the creation of a prescriptive energy alternative. The flexibility, simplicity and ease of application of this program by builders and its ease of understanding by building officials will result in significantly improved compliance throughout the Commonwealth. The alternative code simplifies Chapter 11 by reducing the number of climatic zones from six to three, and allows for trade-offs when using high efficiency heating equipment in newly constructed homes. This alternative version of Chapter 11 of the IRC 2000 is just that, an alternative to one chapter of the IRC. It is intended to supplement the IRC and be consistent in both format and general intent. For these reasons, PBA would ask that the language contained in Section 403.21 (e) (1) of the proposed regulatory package be retained as part of the final regulations in order to preserve this option.

Thank you for your consideration of the comments submitted on behalf of the PA Builders Association. Please be assured that our members are looking forward to the final adoption of the UCC and a continued working relationship with the Department that will accomplish the goals and objectives set by our state legislature providing for the safety and welfare of the consumer, general public and the owners and occupants of buildings and structures in the Commonwealth.

Sincerely,



Charles A. Farrell
President
PA Builders Association

9/23/2002

Melanie Cook
Asst. Director Governmental Affairs/Regulatory Specialist
Phone: (717) 730 - 4380 x. 3013
Fax: (717) 730 - 4396
e-mail: mcook@pahomes.org



Penn State University Cooperative Extension
Better Kid Care Program

02 SEP 25 AM 8:16
B.O.I.S.
DIRECTOR'S OFFICE

September 23, 2002

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:

I'm writing to express my objection to the proposed regulations adopting a Uniform Construction Code for the Commonwealth of Pennsylvania. Specifically, I object to the provisions relating to family and group child care programs. 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 six 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 DPW regulations and local building codes allow care for up to six children in a family child care home as a residential use.

I appreciate the intent of these regulations is to ensure safety and protection of young children. However, the premise of a family (home-based) child care program is to care for children in a real home setting, not a commercial building.

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 _ years of age.

I believe the construction code should be consistent with Department of Public Welfare (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 two, which helps to ensure safe exit in case of fire.

For more information: Better Kid Care: www.betterkidcare.psu.edu
National Network for Child Care: <http://www.nncc.org/>

1

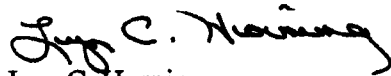
The group regulations are more restrictive than the International Building Code. The IBC requires child care centers to meet I-4 requirements if they serve more than five children under 2 1/2, not one as is suggested in this rulemaking. In fact, requirements in homes would be more restrictive than group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

Family and group home child care providers work on very low profit margins. Both 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.

I fully understand the intent of the regulations is ensure protection of young children in out of home settings. However, I believe the proposed rules go beyond what is necessary to ensure child can be safely removed in a fire. Moreover, I 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.

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

Sincerely,



Lyn C. Horning
Better Kid Care Program Assistant Director

23 September 2002

SEP 23 11:03

Charles J. 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
csludden@state.pa.us

Dear Sir:

I am writing, on my own behalf, to comment on the "Proposed Rulemaking, Title 34 Labor and Industry, Uniform Construction Code". My comments will be limited to one item and that is the portion of the proposed rulemaking that has an impact on energy conservation or lack thereof.

The preamble to the proposed rulemaking includes the following statement in the second paragraph: "The Department proposes the following regulations for the adoption and enforcement of the Uniform Construction Code (35 P.S. §§ 7210.301 -7210.304) as set forth in Annex A. This notice of proposed rulemaking includes the Department's interpretation of the provisions of the act of November 10, 1999 (P.L. 491, No. 45) adopting the *1999 BOCA National Building Code, Fourteenth Edition* or its successor codes as the Uniform Construction Code (UCC). **The current successor code is the *International Building Code 2000 (IBC)*.**"

In this instance, the Pennsylvania Department of Labor and Industry (DL&I) has presumed the current successor code to the "1999 BOCA National Building Code" set forth in the statute is the First Printing of the 2000 International Building Code (IBC). This presumption is incorrect, as the current successor is the 2000 IBC with the 2002 Supplement. The 2000 IBC was the first version of the IBC ever published, and the 2002 Supplement contains many corrections, clarifications, changes, updated references, and improvements.

As a taxpayer in this Commonwealth, I take great interest in the following statement made in the Background section of the preamble: "The Act establishes a statewide building code, the Uniform Construction Code (UCC). This code provides uniform standards for builders and design professionals, and greater protection for building owners and occupants, and the general public. The Department, municipalities and third-party agencies in the Commonwealth will utilize the UCC to insure that this Commonwealth has a uniform construction code that will promote safety, health, sanitary construction, state-of-the art techniques and cost effectiveness in residential and commercial construction." In this case, the First Printing of the 2000 ICC Codes is not even a state-of-the art code. By implementing the 2000 IBC and the 2002 Supplement, fewer changes will be required when future updates are made to these codes and taxpayer money will not be spent on additional public hearings and training.

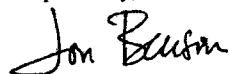
Most importantly, the 2000 IBC Codes now proposed by the DL&I directly contradicts the statement in the Background section of the preamble that requires "state-of-the art techniques and cost-effectiveness" for construction in the Commonwealth. The 2000 IBC Codes reference ASHRAE 90.1-1989 *Energy Standard for Buildings Except Low-Rise Residential Buildings* – a document that is now thirteen years old. By implementing the 2000 IBC and the 2002 Supplement, the referenced energy standard will then be ASHRAE 90.1-1999. While certainly not state-of-the-art (currently ASHRAE Standard 90.1-2001 is the state-of-the-art), it will place the Commonwealth on par with the states of New Jersey and New York which have already adopted ASHRAE 90.1-1999 as the energy standard.

September 23, 2002

On July 15, 2002, the Department of Energy published in the Federal Register (Docket EE-DET-02-001 on page 46464 - enclosed) a statute whereby all states, including the Commonwealth of Pennsylvania, must certify to the Secretary of the United States Department of Energy that their energy provisions for commercial buildings equal or exceed those set forth in the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America ANSI/ASHRAE/IESNA Standard 90.1-1999. Under the proposed rulemaking, the Commonwealth of Pennsylvania will not comply with these Federal Statutes and Rules. However, were the Commonwealth to adopt the 2000 IBC and the 2002 Supplements, they would most likely be in compliance with Federal Statutes and Rules.

As the sixth largest state, now is the time for the Commonwealth of Pennsylvania to exert leadership on the energy and environmental fronts. By implementing a simple change in the language of the proposed rulemaking concerning the implementation of the Uniform Construction Code, the Commonwealth will both demonstrate leadership on energy conservation and wisely utilize precious taxpayer dollars.

Respectfully,



Jon Benson
735 Taylor Road
Downingtown, Pennsylvania 19335

BOARD OF SUPERVISORS
TREDYFFRIN TOWNSHIP

Original: 2283

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CHESTER COUNTY
1100 DuPortail Road
Berwyn, PA 19312-1079

(610) 644-1400 FAX (610) 993-9186
Email: tredyffrin@tredyffrin.org
Website: www.tredyffrin.org

Joseph A. Janasik
Township Manager

William H. Lamb
Solicitor

02 SEP 25 AM 8:36
B.O.I.S.
DIRECTOR'S OFFICE

September 23, 2002

Charles J. Sludden, Jr.
Director
Bureau of Occupational and Industrial Safety
PA Department of Labor and Industry
1613 L&I Building
Harrisburg, PA 17120

Dear Mr. Sludden:

Tredyffrin Township currently enforces our building code and plans to elect to enforce the Uniform Construction Code (UCC). Tredyffrin Township's building department has reviewed the proposed administration and enforcement regulations for the UCC published in the Pennsylvania Bulletin on August 24, 2002 and, based on our experience, has the following comments about the proposed regulations:

Timeline: Tredyffrin Township administers the 1993 BOCA building code. The UCC regulations require municipalities that elect to enforce the statewide building code to enact an ordinance adopting the UCC as the municipal building code within 90 days of the regulations going into effect (§403.101(b)). When Tredyffrin does that, presumably some time in the first half of 2003, our building department staff will have to quickly familiarize themselves with the 2000 International Building Code, the building code incorporated in the proposed UCC regulations. In 2003, however, the International Code Council is planning to issue a new International Building Code (IBC). §304 of the UCC statute requires the Department of Labor and Industry (L&I) to promulgate regulations adopting a new national building code by the end of the year in which it is issued. If the new IBC is completed in 2003, will L&I require municipalities enforcing the UCC to adopt that code by December 31, 2003? If so, Tredyffrin's building department will have enforced three different sets of codes within the same year. Each code adoption entails a start-up period during which building code officials get acquainted with the new provisions. Two such learning periods in one year would be excessively time consuming. While it is understandable that L&I wishes to begin implementing the UCC as soon as possible, the initial success of that implementation would be greatly enhanced if existing codes could be grandfathered in until the 2003 version is finalized.

Residential certificate of occupancy: It is unclear in the proposed regulations whether certificates of occupancy will be required only for new construction and a change in the type of housing (e.g. single family to multi-family) or will also be required when new occupants move

into an existing home (§403.62(a)(1)). Requiring certificates of occupancy for all residential property transactions, with the accompanying review of plans or inspections, would impose a substantial burden on municipal staff.

Elevators and boilers: While most of the UCC adopts national standards, provisions applying to elevators and boilers are state standards that differ from the national standard. Both compliance and enforcement would be more straight forward if national standards were adopted consistently in the UCC.

Health care facilities/Health Department regulations: §403.22(f) requires municipal building code officials to distribute Department of Health requirements from the Health Care Facilities Act. Will the Department of Health assemble a document to be distributed? Will municipalities be required to do any more than notify applicants of the requirements? Please clarify what kind of municipal responsibility this provision entails.

Permit application: §403.42(n) requires *applicants* to identify on the application the name and address of the individual who will "observe" the construction to ensure it is built in accordance with the permit application and UCC. Does this provision refer to inspections? How would applicants know which municipal inspector they will be assigned? These types of ambiguous questions tend to generate a lot of questions from applicants who are not sure how to answer, which in turn takes up staff time. Please be sure to keep the required application as simple as possible.

Tredyffrin Township appreciates the opportunity to comment on these proposed regulations. If you have any questions, please contact Mimi Gleason, Assistant Manager, at 610-408-3602.

Sincerely,



Joseph A. Janasik
Township Manager

cc: Senator Robert Thompson
Representative Carole Rubley

Original: 2283

Abela, Brian

From: Sludden, Charles
Sent: Monday, September 23, 2002 10:28 AM
To: Abela, Brian; Holzman, James A. (GC-LI)
Subject: FW: Alert - building code calls and e-mails needed NOW

FYI

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

From: Liz Armistead [mailto:LArmistead@smsmusic.org]
Sent: Friday, September 20, 2002 12:35 PM
To: csludden@state.pa.us
Subject: RE: Alert - building code calls and e-mails needed NOW

To WHom It May Concern:

In regard to building codes I feel that stringent safety requirements are essential regardless of whether the total amount of quality child is reduced or not. The second comment that I feel obliged to make is that family, group and center based child care must meet all DPW regulations. L&I regulations and a Uniform Construction Code must not result in a less stringent application of DPW standards. The difficulty in providing safe, healthy child care with an appropriate and rich educational environment and qualified teachers is that it is expensive. Lowering standards is unacceptable even at the cost of less available care. The State Departments of Public Welfare, Licensing and Inspections, and Education simply must budget for and find political, bureaucratic, professional and public support for funding which makes a variety of child care available which meets the highest possible standards in all areas! Unfunded mandates for high standards must stop! Set high standards and fund them.

M. Elizabeth Armistead
Director, Early Childhood Programs
Settlement Music School
P.O. Box 63966
Mary Louise Curtis Branch
416 Queen Street
Philadelphia, Pennsylvania 19147-3966

Tel. (215) 320-2670
Fax (215) 551-0483
email: larmistead@smsmusic.org

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

From: Terry Casey [mailto:terry@pacca.org]
Sent: Friday, September 20, 2002 11:06 AM
To: Tom Foley; bjt723@aol.com; Anne Goldstein; Annette Freeman; Barbara Benedett; Bob Frein; Carol Martin ; Carolyn Carter; Carolyn Hawk; Clark Agapakis; Debi Mathias; Denise Steele; Diana Dixon; Diane Feeser; Diane P. Barber; Ernestine Redd; Faith Miller; FrancyneWharton@aol.com; Hugh Dugan; Janet Filante; Jeff Koppel; Joyce Lang ; Judy Friedman; Kathy Mitchell; Kelly Flara ; Kendra Thomas; Kerstin Potter; Liz Armistead; Lois J. DeLisa; Michael McHale; Michele Nelson; Miguel Ramirez; Missy Horrow; Nancy Jordan; Nancy Schall; Nayda Ramos; Pat Miiller; patlevin@ptdprolog.net; Robin Lloyd; Roland Tomasch ; Roxie Nestlerode; Sally Shenker; Sharon Easterling; Sharon Stasiewski; Sharon Ward

9/23/2002

Subject: Alert - building code calls and e-mails needed NOW

The State Department of Labor and Industry is seeking public comment on regulations instituting a Uniform Construction Code for Pennsylvania. The deadline for comments is Monday, September 23.

It is important for as many centers, groups and individuals to comment as soon as possible. Comments can be sent via e-mail to the address listed below. Comments can be sent to: Charles J. Sludden, Director of Bureau of Occupational and Industrial Safety, Department of Labor and Industry, Room 1613, Labor and Industry Bldg., 7th and Forster Streets, Harrisburg, PA 17120, or by e-mail to csludden@state.pa.us.

The proposed regulations can be found at <http://www.dli.state.pa.us/landi/cwp/view.asp?a=124&Q=70577>. The childcare section is 403.23.

Talking points:

1. The construction code should be consistent with DPW family, group and center child care regulations. DPW regs are based upon sound research in health and safety practice. DPW regs limit the number of infants in a family home to two, which helps to ensure safe exit in case of fire.
2. The regulations are more restrictive than the International building code. The IBC requires child care programs to meet I-4 requirements if they serve more than five children under 2 1/2, not one as is suggested in this rulemaking.
3. The cost of complying with these regulations would be prohibitive to providers reducing the availability of care, especially for infants and toddlers.
4. The result would be more illegal care, as family providers go further underground, and less state oversight.

Children could, ironically end up more at risk if the regulations are adopted.

Please note that the regulations would only apply to new family, group and center providers, not existing ones. But it would affect existing providers if they want to expand to a new location or with expansion into a new space for a currently licensed provider.

Additional background and detail information:

The proposed regulations would have a significant impact on new family, group and center child care providers. Main provisions: 1. Family child care providers could only serve five children as a residential use. A sixth child would require the provider to meet commercial regulations, as either an E (educational use) or I-4 (industrial) classification, depending on the age of the sixth child. ADA requirements and more stringent fire suppression rules would apply. 2. Group child care providers, serving 7 to 12 children, would need to meet the more restrictive I-4 requirements if they serve even one child under the age of 2 1/2.

These requirements are that any family, group or center in order to meet building code for having even one child under two and one half, a program would have to either be sprinklered or have an exit directly to the outside from the caregiving area (not through a hallway) at ground level (not down a few steps).

Please note that the regulations would only apply to new family, group and center providers, not existing ones. But it would affect existing providers if they want to expand to a new location or with expansion into a new space for a currently licensed provider.

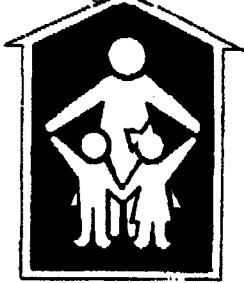
These provisions are even more restrictive than the already strong building code requirements in

place in Philadelphia. As a practical matter, the new requirements would make it very difficult for family and especially group providers to serve infants and toddlers.

Many thanks to Sharon Ward, members and others who have been sending e-mails around on this topic.

Terry Casey, Executive Director
PACCA (Pennsylvania Child Care Association)
2300 Vartan Way, Suite 103 / Harrisburg, PA 17110
(717) 657-9000 Fax: (717) 657-0959

Original: 2283



associated day care service, inc.

715 Jackson Street, Philadelphia, Pa. 19148 215/389-8500 • Fax 215/389-1025

September 23, 2002

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

Dear Mr. Sludden:

Associated Day Care Service, Inc. is a non-profit United Way agency in Philadelphia, Pennsylvania whose mission is to provide day care services to children of low-income families. We have over forty family day care homes under our umbrella agency, all of which are licensed by the City of Philadelphia and registered by the Department of Public Welfare. We strongly oppose the proposed regulations adopting a Uniform Construction Code for the Commonwealth of Pennsylvania.

While we fully understand that the regulations were written with the safety of children in mind, they are unrealistic and will force the regulated family day care providers in this State to go underground, thereby, creating a much more dangerous situation. The State has already created a hazardous situation by allowing unregulated homes to be reimbursed with State dollars. The Labor and Industry Department will just add icing to the cake by creating confusion among current registered family day care homes as well as deterring anyone from becoming a family day care provider in the future.

Would you be willing to put up lighted exit signs in your house or have a fire suppression system installed in your home? Do you honestly believe that anyone would be willing to buy your home after you decide to no longer care for children in your home? Please be realistic.

SEP 23 2002 11:05 AM
U.S. MAIL



Mr. Charles J. Shudden

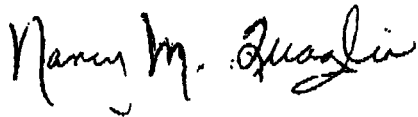
September 23, 2002

Page 2

While you might have reasons for instituting an 1-4 requirements, the burden you place on a family day care home for caring for one additional child seems absurd. Providers are allowed by the Department of Public Welfare to care for six children. The State did not recently or arbitrarily pick a number out of a hat. They based it on long years of research. There is not enough quality infant toddler care in the State now. The demand for caring, compassionate providers to care for "our future leaders" far exceeds the supply. Please don't snuff those providers out by putting financial burdens they will or cannot abide by.

Associated Day Care Service, Inc. has been in the "business of family day care" for over fifty years and we know what we are talking about. Call us with questions. We can be reached at 215-389-8500.

Sincerely,



NANCY M. QUAGLIA, MSW, ACSW
Director of Family Day Care/
Assistant Executive Director

NMQ/cmb

original: 2283

Sludden, Charles

From: vze2phye [vze2phye@verizon.net]
Sent: Sunday, September 22, 2002 6:41 PM
To: Csludden@state.pa.us
Subject: U.C.C. Comments

Chuck:

The following are additional issues, which I feel need to be addressed within the Uniform Construction Code's Regulations.

Jerry

1. §401.2(b)(4), of the *Proposed Regulations* outlines a \$200.00 fee is to be charged for an "Interim Accessibility Plan Review and Inspection". However, this term is not defined, nor is it expanded upon to show what this Interim Accessibility encompasses.
2. Likewise, §403.1(a) makes reference that the Uniform Construction Code applies to all existing structures that are not "Legally Occupied", yet does not give a definition of same.
3. §401.2(g) indicates that there will be a \$100.00 fee applied to petition either the Industrial Board or the Accessibility Advisory Board. Clarification needs to be made as to if this fee is **per request or per appearance before the Board.**
4. Section 701(k) of the 'Act' mandates: (k) Insurance. - The department shall promulgate regulations requiring code administrators in third-party agencies to carry minimum levels of liability insurance. However, nowhere within the "*Proposed Regulations*" is there a reference to this insurance issue.

UNIFORM CONSTRUCTION CODE
COMMISSION
SEP 23 2002

Original: 22834

9-11-02

September 22, 2002

VIA FAX 717-787-8363

Charles J. Sludden, Jr.
Director
Bureau of Occupational and Industrial Safety
Pennsylvania Department of Labor and Industry
1613 L & I Building
Harrisburg, Pennsylvania 17120

Mr. Sludden,

I am writing to you as a proud member of the International Brotherhood of Electrical Workers about an issue of importance to all of our members in this state.

It has come to our attention that the Department of Labor and Industry is planning to adopt a number of codes developed by the International Code Council (ICC), including the ICC Electrical Code and the International Residential Code (IRC). This planned adoption would preclude direct adoption of NFPA 70, *National Electrical Code*® (NEC); the most widely used and recognized electrical code in the world. This despite the fact that the NEC has been the source for electrical installation requirements for over 100 years and continues to be the nationally recognized benchmark for electrical safety throughout the U.S.

Even the ICC - the organization that created the ICC Electrical Code - has indicated that "it has no plans for the development of an electrical code that would duplicate the purpose and then compete with the National Electrical Code." Pennsylvania should not adopt a code that is not even backed by the organization that developed it. No other state has adopted the ICC's electrical document, because it is insufficient.

9-11-02

By being the only state in the country to adopt the ICC document to address electrical installations, you will be putting Pennsylvanians who work in the electrical community in an unfamiliar position. All of the apprenticeship training they have gone through has been based on the National Electrical Code. They have no experience working with the unproven, untested ICC electrical document. Also, as it currently stands now, I believe the IRC would reference the ICC Electrical Code, rather than the NEC.

Also, this proposed rule may well result in changes to electrical provisions used in Pennsylvania in a way that conflicts with the NEC. That is because ICC's code development process can result in the inclusion of technical requirements in the ICC Electrical Code which may amend or even contradict requirements in the NEC that have been developed through a balanced, technically-based, consensus process.

On behalf of other IBEW members, I ask that the Department of Labor and Industry remove references to the ICC Electrical Code from this proposed rule and substitute references to the National Electrical Code to address electrical installations. In addition, the electrical chapters in the IRC should be amended to only reference the NEC.

The safety of people and property in this state are too important to rely on a document that is not supported by the organization that developed it. I have enclosed a copy of an ICC news release regarding the ICC Electrical Code for your review.

Sincerely,


Paul Casparo

Original: 2283



P.O. Box 248 • 315 Limekiln Road • New Cumberland, PA 17070
(717) 774-3440 Fax: (717) 774-5596 (888) 242-7642
Web site: www.pmha.org • E-mail: general@pmha.org

September 20, 2002

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

Re: Regulation #12-60 (IRRC #2283)
Department of Labor and Industry
Uniform Construction Code; Administrative and Enforcement, Elevators
and Other Lifting Devices

Dear Mr. Nyce:

The Pennsylvania Manufactured Housing Association has serious concerns with Labor and Industry's proposed regulation.

Please advise as to the process to submit written or oral comments to the Independent Regulatory Review Commission in regards to Regulation #12-60 (IRRC #2283).

We anxiously await your reply.

Sincerely,

Mary Gaiski, PHC
Executive Vice President



Original: 2283

SEP 20 2002 10:03
RECEIVED

September 20, 2002

Commonwealth of Pennsylvania
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

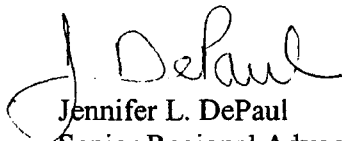
Dear Members of the Commission:

The Eastern Paralyzed Veteran's Association (EPVA) is a private, non-profit veterans service organization dedicated to protecting the rights of spinal cord injured veterans and all people with disabilities throughout Pennsylvania, New York, New Jersey and Connecticut. As an organization, we are committed to ensuring that disabled individuals are provided with the opportunity to enjoy and participate in the same activities as non-disabled persons.

Attached are EPVA's comments, also submitted to the Pennsylvania Department of Labor & Industry, regarding the proposed Administrative and Enforcement Regulations being developed to implement Act 45 of 1999. As a disability organization that represents Pennsylvania veterans with disabilities, we are sharing the attached with the IRRC in order to ensure that our comments are taken under advisement.

Should the Commission have any questions about the enclosed information, or wish to speak with me directly, I may be reached at 215.381.3037.

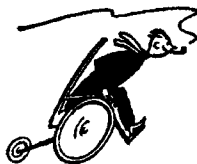
Sincerely,


Jennifer L. DePaul
Senior Regional Advocate

**Comments of the Eastern Paralyzed
Veterans Association (EPVA) to the
Pennsylvania Department of Labor &
Industry**

**Uniform Construction Code
*Proposed Administrative
and
Enforcement Regulations***

September 19, 2002



Eastern Paralyzed Veterans Association
PO Box 42938
Philadelphia, PA 19101-2938
1.800.795.3628

Introduction

The Eastern Paralyzed Veterans Association (EPVA) is a non-profit organization dedicated to serving the needs of spinal cord injured veterans residing in Pennsylvania, New Jersey, New York and Connecticut. Since its founding in 1946, EPVA has operated valuable programs designed to enable its members, as well as others with disabilities, to lead full and productive lives.

EPVA is the principal disability participant in the development process of the ICC *International Building Code* (IBC), and has served on the IBC Means of Egress/Accessibility Committee for the last two years. Our Director of Building Codes and Standards is a voting member of the ANSI A117 Accredited Standards Committee, and chaired the A117 Task Group that harmonized the standard with the 2002 draft of the Americans with Disabilities Act Accessibility Guidelines (ADAAG). We were the sole disability advocate involved in drafting the ICC *Code Requirements for Housing Accessibility* (CRHA) to create a model code that reflects the accessibility requirements of the federal Fair Housing Amendments Act, and worked with the U.S. Department of Housing and Urban Development to receive that federal agency's recognition of the CRHA's equivalency with the Fair Housing Accessibility Guidelines.

EPVA's reason for this involvement in the model building codes and standards has been to insure that our members and others with disabilities will be insured that the minimum requirements of our nation's civil rights laws are met or exceeded in jurisdictions that adopt the IBC. Accordingly, we were a strong proponent of the Pennsylvania Uniform Construction Code Act (Act) and, since the enactment of Act 45, have spent hundreds of staff hours training designers and code officials in Pennsylvania in the accessibility requirements of the UCC¹.

Given this extensive involvement in both the model codes and standards and the Commonwealth's adoption of the ICC family of codes, EPVA is extremely disappointed with the Department of Labor and Industry's (Department) proposed rulemaking for the administrative and enforcement portion of the Uniform Construction Code. We believe that this rule, if adopted, will undermine years of hard work on both the state and national level to insure that the accessibility provisions of the *International Building Code* meet or exceed the federal civil rights mandates of the Fair Housing Amendments Act (FHAA) and Americans with Disabilities

¹ EPVA is currently providing training in Pennsylvania in conjunction with the Building Officials and Code Administrators International, the Pennsylvania State Association of Town Supervisors, and the Pennsylvania Council of Independent Living,

Act (ADA). We maintain that none of the resulting dilution of the access provisions of the code was contemplated by the State Legislature when Act 45 was enacted, and that numerous provisions of the proposed rule contradict that statutory language of the Act. The result will not only deprive Pennsylvanians with disabilities of the barrier free environment guaranteed by Pennsylvania law, but subject design professionals, building owners and businesses in the Commonwealth to continual complaints and lawsuits under the FHAA and ADA. EPVA is at a loss why the Department would invite these problems on the citizens of our state.

Department Enforcement

General Comments

This section permits the Department, the Secretary, and the Accessibility Advisory Board to consider or grant variances to the accessibility provisions of the code. Variances are not permitted in either the *International Building Code* or in previous editions of the BOCA *National Building Code*. The term is never defined in the Department's proposal, yet has often taken the form of total waivers in the area of accessibility as required by the current Pennsylvania Universal Accessibility Act.

It is critical to note that the above-mentioned model codes were written with the explicit understanding that variances such as these are never permitted. Under its Board of Appeals section, the IBC states:

112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code [emphasis added].

Essentially, any "reasonableness (to use the Department's term) has already been incorporated into the IBC text, precluding any need for further waivers. (The BOCA code in publication at the time of the enactment of Act 45 had similar language.)

The statutory language of Act 45 precludes a Board of Appeals established by a local authority having jurisdiction from granting such variances. It states

A municipality which has adopted an ordinance for the administration and enforcement of this act . . . shall establish a board of appeals as provided by Chapter 1 of the 1999 BOCA National Building Code . . . [501(c)(1)].

In effect, this portion of the proposed regulations would permit the Secretary to grant variances and waivers to the accessibility requirements of the code when the state legislature has specifically prohibited municipal boards of appeals from granting any such variances or waivers for other code requirements not directly related to accessibility. EPVA cannot imagine that this reflects the legislature's intent, and encourages the Department to remove this extra-legal discretion from the proposed rules.

This portion of the proposed regulations would allow the Board and Secretary to continue a pattern and practice, started under (but in violation of) Act 235/166, of granting state variances that have the effect of inviting and promoting violations of federal law. In the past, variances or waivers issued by the Department have:

- Allowed a multi-story office building containing the offices of health care providers to be constructed without an elevator in violation of state and federal regulations; this gave Pennsylvania the "honor" of having the first architect in the country to be sued and fined for violating the Americans with Disabilities Act;
- Approved the construction of an inaccessible press box in a multi-million dollar football stadium despite the fact that both Act 235/166 and ADAAG required an elevator to that space;
- Allowed inaccessible raised dining areas in a new pizza restaurant, based solely on aesthetic objections of the building owner; again, both federal and state regulations were violated as a result;
- Approved total exemptions of multi-family housing units from even the minimal accessibility requirements of current Pennsylvania law because dwelling units may be planned for 'sale' and not for 'rent', resulting in violations of the federal Fair Housing Act as well as Pennsylvania law.

Understanding full well that the Department has neither the obligation nor authority to enforce federal law, we reiterate our position that the Department exceeded its authority under the existing Pennsylvania statute when it granted these waivers. What is critical to note in these examples is that the Department, by ignoring its own regulations, effectively invited a violation of comparable federal civil rights protections for disabled persons.

§403.1.4.1 Enforcement by the Department

(e) This section permits a building owner to file an appeal concerning technical infeasibility under Chapter 11 (Accessibility) of the Uniform Construction Code. The proposal is flawed in two regards.

The definition of technically infeasible as found in section 1102.1 of the code is:

An alteration of a building or a facility that has little likelihood of being accomplished because the existing structural conditions require the removal or alteration of a load bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification or addition of elements, spaces or features that are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

While the definition is found in Chapter 11, the term is never used in the Chapter 11 requirements for new construction, and applies only to existing buildings subject to the accessibility requirements of Section 3408. (The definition was editorially shifted to Chapter 34 in the 2001 Supplement of the IBC.) The definition itself states that it applies to the alteration of a building. To permit appeals to the new construction requirements of the code (as is suggested here) is contrary to the code writers' intent and a serious reduction in the accessibility requirements envisioned in the Act.

Conversely, Section 3408 was written so as to permit the authority having jurisdiction (in this instance, the local code enforcement official) to make a determination that strict compliance with the requirements of Chapter 11 is technically infeasible and to permit deviations from the new construction requirements where alterations provide access to the maximum extent technically feasible. Thus, if the location of a load-bearing wall adjacent to a door is such that only 17 ½ inches of clearance can be provided at the latch side of the pull side of the door, the authority having jurisdiction is required to permit the deviation from the 18 inch clearance required in new construction. The Department's language would require an "appeal" for something that is already permitted (if not required) by the code. This language should be removed.

§403.142 Accessibility Advisory Board.

EPVA finds this entire section of the proposed regulations to be the most troublesome and, in some cases, offensive to the clear legislative intent of the Act.

Through passage of Act 45 (and the repeal of Act 235 therein), the Pennsylvania Legislature significantly increased the level of accessibility in new and existing construction to be required throughout the state. At the same time, it brought the “science of accessibility” to be applied in the state into modern times, adopting scoping language in the IBC that reflects or exceeds the federal accessibility requirements of the ADA and FHAA and technical criteria (found in the referenced ICC/ANSI A117.1-1998 standard) that has been substantially approved or adopted by the federal Access Board and HUD. Through our years of work on this legislation, EPVA was told by countless legislators that they shared our goal of improving the accessibility required through state law.

The proposed administrative and enforcement provisions of the Uniform Construction Code, by not retaining the regulatory restrictions placed upon the Secretary and Board by Act 136/166, would effectively undermine any and all advances contemplated by the Legislature when it passed Act 45.

The Department’s current regulations under the Universal Accessibility Act read as follows:

Section 60.6(b) The Board may recommend that a variance be granted or denied, and the Secretary may grant or deny a variance. A variance may be granted if all of the following conditions are met:

- (1) Compliance with the act and this chapter would result in an extreme hardship which may include instances where compliance would result in prohibitive costs or a conflict with local zoning ordinances or where compliance is not feasible due to inherent dimensional, structural or other physical constraints.***
- (2) The extreme hardship has not been created by the applicant.***
- (3) The terms of the variance are consistent with the intent of the act . . .***

None of these restrictions on the Board’s deliberations or the Secretary’s decisions has been carried forward into the proposed regulations. The Board may consider mitigating factors as enumerated in §403.142(d)(6), but is under no obligation to do so. An architect or building owner may cause a building to be constructed in violation of the code such that the cost to correct the violations may no longer be “reasonable”, thus allowing the Board and Secretary to award applicants with variances necessitated by their own self-induced hardships (or

malfeasance). Nothing in Act 45 allows (and Act 235/166 neither permitted or contemplated) the “extensions of time” specified in this section of the proposed regulations, extensions that would have the effect of denying access to persons with disabilities for months, even years after a building is constructed and occupied, extensions not provided for (and in fact prohibited by) the statutory language of the Act.

This section of the regulations should only permit the Board to consider, and the Secretary to grant, appeals based on a claim that the true intent of the code has been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good or better form of construction is proposed. Further, the rules must state the Board shall have no authority to consider, and the Secretary shall have no authority to waive the accessibility requirements of the code. This is what Chapter 1 of the ICC and BOCA codes stipulates for Boards of Appeals. This is what the Pennsylvania Legislature has demanded of local municipalities adopting this code. At the very least, the Department must be held to the same standard, particularly where the rights of people with disabilities are involved.

Conclusion

EPVA labored hard and long for the passage of Act 45 in Pennsylvania, and has looked forward to that day when the accessibility requirements of a model building code can be enforced in Pennsylvania. We did so not only for the benefit of our members and others with disabilities, but in recognition that the state’s existing accessibility laws and regulations often fall short of the minimum requirements of federal civil rights laws, and that developers, designers and building owners in our state often violate the access requirements of the Americans with Disabilities Act and Fair Housing Amendments Act simply by complying with Act 235. We further watched as the Accessibility Advisory Board and Secretary became complicit in these violations by granting variances to those existing state accessibility regulations that do reflect federal regulations, and anticipated the day when – by virtue of the statutory provisions of the Act – such arbitrary and capricious variances would be a thing of the past.

The administrative and enforcement portion of the Uniform Construction Code proposed by the Department of Labor and Industry undermines the promise of increased and improved accessibility for persons with disabilities envisioned by the Act. Worse, they would permit

variances and waivers to those provisions that contradict the statutory language set forth by the Pennsylvania Legislature.

The net effect of the adoption of this proposal cannot be overstated. Beyond the obvious dilution of accessibility this proposal would cause, the legal and financial burdens it would place on Pennsylvania's building, design and development sectors are beyond estimation.

EPVA is involved in accessibility issues in Connecticut, New Jersey and New York as well as Pennsylvania. It is safe to say that since the passage of the Americans with Disabilities Act and the Fair Housing Amendments Act, the actions and decisions of the Pennsylvania Accessibility Advisory Board and Department of Labor and Industry Secretary have caused us to file more complaints of ADA and FHAA violations against the private sector in Pennsylvania than in any other state we cover. Inaccessible press boxes in multi-million dollar football stadiums; inaccessible raised dining areas in pizza restaurants; multi-family housing units that are totally exempt from even the minimal accessibility requirements of current Pennsylvania law because dwelling units may be planned for 'sale' and not for 'rent'. The list goes on.

As Pennsylvania prepares to adopt a Uniform Construction Code that will be a far better reflection of our federal accessibility requirements than that provided in Act 235/166, any administrative and enforcement regulations that invite violations of the federal laws to an even greater degree than those contemplated in Act 235/166 are unconscionable. In many cases, the hardships that will be experienced by architects, businesspersons and building owners in our state may well exceed those experienced by disabled Pennsylvanians. The person in a wheelchair who encounters an inaccessible restaurant may have five accessible alternatives in the neighborhood, while the owner of that inaccessible restaurant will find little comfort in a variance granted by the Secretary when attorneys from the United States Department of Justice visit to investigate a complaint.

In short, the Department's proposal offers persons with disabilities little if any assurance that the accessibility requirements of the Uniform Construction Code will be enforced or supported once an owner seeks some variance or unspecified extension of time from the Department. At the same time, it encourages designers, developers and building owners to violate federal law and effectively paint a huge bulls eye for federal complaints on their chests, with the Advisory Board, Department and Secretary supplying the brush and paint. EPVA finds nothing in the statutory language that permits the gross deviations from the IBC accessibility

requirements contemplated (and invited) by these proposals. More importantly, and again, we are at a total loss as to why the Department proposes to invite these problems on the citizens and businesses of our state.

We hope the Department will reconsider its proposed regulations for the administrative and enforcement portion of the Uniform Construction Code in light of the effect they would have on the built environment and accessibility for persons with disabilities, bearing in mind the intent of our legislature to improve accessibility for persons with disabilities, and the extent to which these rules would undermine and contradict that intent. We also encourage the Department to consider the economic impact on Pennsylvania designers, developers and building owners of creating a state mechanism for encouraging violations of the federal Americans with Disabilities Act and Fair Housing Amendments Act, particularly as Department procedures and records would create a roadmap and paper trail for disability organizations such as the Eastern Paralyzed Veterans Association to seek federal intervention where the Department grants variances to state code requirements that were adopted to reflect federal laws and regulations. Given Pennsylvania's unenviable record of generating federal complaints through the actions of its Accessibility Advisory Board and Department of Labor and Industry Secretary, now is the time to correct our state's problems. EPVA encourages such a correction.