

Regulatory Analysis Form

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(1) Agency

Department of Labor and Industry

2006 OCT 20 PM 12: 33

INDEPENDENT REGULATORY
REVIEW COMMISSION

(2) I.D. Number (Governor's Office Use)

12-75

IRRC Number:

2580

(3) Short Title

Uniform Construction Code

(4) PA Code Cite

34 Pa. Code §§ 401.1, 401.2,
401.5, 403.1, 403.21, 403.25,
403.26, 403.45, 403.46, 403.62,
403.62a, 403.65, 403.102, 405.2,
405.7 and 403.28.

(5) Agency Contacts & Telephone Numbers

Primary Contact: Edward Leister (717) 787-3323
Secondary Contact: Karen Galli (717)-787-4186

(6) Type of Rulemaking (Check One)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking
 Omitted

(7) Is a 120-Day Emergency Certification Attached? (Check One)

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

This regulation updates the Uniform Construction Code (UCC) by adopting the 2006 versions of the International Code Council (ICC) codes. It also updates the regulation by incorporating the 2001 through 2006 statutory amendments to the Pennsylvania Construction Code Act. (35 P.S. §§ 7210.101-7210.1103) (Act). Section 304 (35 P.S. § 7210.304) requires the Department of Labor & industry (Department) by December 31 of the year of the issuance of a new triennial BOCA National Building Code or its successor building code, to promulgate regulations adopting the new code as the Uniform Construction Code. The ICC and American National Standards Institute (ANSI) updated their national codes and issued 2006 editions early in 2006. The Act was amended by: Act 43 of 2001 (Act 43); Acts 13, 92 and 230 of 2004 (Acts 13, 92 and 230 respectively); Act 95 of 2005 (Act 95); and Act 108 of 2006. Acts 43, 13, 92, 230, 95 and 108 made numerous statutory changes which are reflected in this amendment. This amendment also reflects changes made to section 613-A the "Administrative Code of 1929" by Act 47 of 2003 relating to elevator fees.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

This regulation is submitted under the authority of Section 301 (35 P.S. § 7210.301) which requires the Department to promulgate regulations and section 304 (35 P.S. § 7210.304) which requires the Department by December 31 of the year of the issuance of a new triennial BOCA National Building Code, or its successor building code, promulgate regulations adopting the new code as the UCC. As noted above, the Department is also amending the regulations to conform with the numerous statutory changes.

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

The changes to the code editions in this regulation are mandated by section 304 of the Act (35 P.S. § 7210.304) which requires the Department by December 31 of the year of the issuance of a new triennial BOCA National Building Code, or its successor building code, promulgate regulations adopting the new code as the UCC. All the other changes made to the regulation by this amendment are required by statutory amendment to the Act, specifically, Act 43 of 2001 (Act 43); Acts 13, 92 and 230 of 2004 (Acts 13, 92 and 230 respectively); Act 95 of 2005 (Act 95); and Act 108 of 2006. This amendment also reflects changes made for elevator fees to section 613-A of the "Administrative Code of 1929" by Act 47 of 2003.

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

The changes made by this amendment are either mandated by Act or already made by the numerous amendments to the Act. The Department's justification for utilizing the final-omitted process is that the only changes being made in this amendment are those either mandated by the Act or those that reflect the numerous statutory amendments to the Act. Section 304 of the Act (35 P.S. § 7210.304) requires the Department by December 31 of the year of the issuance of a new triennial BOCA National Building Code, or its successor building code, promulgate regulations adopting the new code as the UCC. The International Code Council and ANSI updated their national codes and issued 2006 editions early in 2006. The Act was amended by: Act 43 of 2001; Acts 13, 92 and 230 of 2004; Act 95 of 2005; and Act 108 of 2006. Acts 43, 13, 92, 230, 95 and 108 made numerous statutory changes which are reflected in this amendment. This amendment also reflects changes made for elevator fees to section 613-A of the "Administrative Code of 1929" by Act 47 of 2003.

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

The changes made by this amendment are mandated by law. The major consequence of not promulgating this regulation are that the Act would be violated and that the most current standards for buildings and elevators would not be followed in the Commonwealth. This amendment will provide uniform guidance to the regulated community.

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

Local governments and the general public will benefit from this amendment. This amendment updates the adopted national codes to the latest editions. It also incorporates all of the statutory changes to the Act and the Administrative Code Amendment for elevator fees in one place.

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

There will be minimal adverse impact. Local governments may be adversely affected in that they will need to absorb the cost of updating their code compliance materials. These costs should be minimal and will probably involve no more than the purchase of updated ICC code books.

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

This regulation requires compliance of all construction contractors, design professionals and building owners in the Commonwealth, all municipalities that have opted to enforce the UCC, third-party agencies, construction code officials and the Department.

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

All the changes in this amendment are mandated by law. The Department has had minimal public contact except some telephone communications concerning the effective date of the updated codes. Most municipalities and construction contractors have requested that the Department delay adoption of the new codes as long as possible so that they may fully prepare for their implementation. This date would be December 31, 2006, which is the effective date of this amendment.

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

The costs for the program will continue at the current amounts. This amendment just updates the adopted national codes to the latest standards and incorporates the statutory amendments which have already taken effect.

The cost of the ICC code books is \$553.75 list price, and \$443.00 ICC member price per set.

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

Local governments will only incur costs associated with updating their UCC materials to the latest code editions. The cost of an entire set of code books is \$553.75 list price and \$443.00 ICC member price. A municipality utilizing third-party agencies may incur no expenses. Municipalities may need to purchase one or several sets of code books depending on the number of employees assigned to its building code program.

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

The costs will be similar to the current costs incurred by the current UCC program. The Department's FY 05-06 annual cost for the UCC program was approximately \$7,423,229.00. FY 05-06 costs for the building code compliance program were \$5,819,072.00. FY 05-06 costs for the elevator and other lifting device program were \$1,604,157.00.

The costs of these amendments would be utilized only for updated code materials and training. The Department has already incurred the costs for the updated code materials.

Local municipalities would incur similar costs. The cost of updated building code books is \$ 553.75 list price and \$443.00 ICC member price per set. Local municipalities would incur similar costs for building code materials depending on the number of building code employees and sets of books needed.

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

	Current FY Year 05-06	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	0	0	0	0	0	0
COSTS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government *						
State Government **	0	0	0	0	0	0
Total Costs						
REVENUE LOSSES:	\$	\$	\$	\$	\$	\$
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

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

* The Department has no information regarding costs of local government UCC enforcement.

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

Program	FY -3	FY -2	FY -1	Current FY05-06
				\$
Buildings	\$7,380,434	\$6,069,995	\$5,679,920	\$5,819,072
Elevators	\$1,745,760	\$1,537,662	\$1,442,633	\$1,604,157

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

The public benefit far outweighs the cost of the amendment. The minimal additional cost for updated code books is minimal compared to the advantage of using the most current nationally recognized standards.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There is no effective non-regulatory alternative. The Act and the statutory amendments to the Act require that these changes be made to the regulation.

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

There are no alternatives regulatory schemes that could address the requirements of the Act to update the code and the statutory amendments made since November 1999.

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

There are no federal standards imposing these building codes.

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

The Department is adopting the most current model code standards in this regulation. The Act requires the adoption of this model code and the latest editions. This amendment will not adversely affect Pennsylvania's competitiveness with other states. These codes are utilized throughout the United States.

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

This regulation amends the following Department regulations found in Title 34 of the Pennsylvania Code, Part I: §§ 401.1 (relating to definitions); 401.2 (relating to department fees); 401.5 (relating to waivers); 403.1 (relating to scope); 403.21 (relating to the Uniform Construction Code); 403.25 (relating to manufactured and industrialized housing); 403.26 (relating to swimming pools); 403.45 (relating to inspections); 403.46 (relating to certificates of occupancy); 403.62 (relating to permit requirements and exemptions); 403.62a (relating to permit applications); 403.65 (relating to certificate of occupancy); 403.102 (relating to municipalities electing to enforce the Uniform Construction Code); 405.2 (relating to standards); 405.7 (relating to periodic inspections); and 405.11 (relating to accident reports).

This regulation adds 34 Pa. Code §403.28 (relating to uncertified buildings)

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

There will be no public hearings on this regulatory amendment.

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

This regulation will not require additional reporting or record keeping. The reporting and record keeping requirements are consistent with the current regulations

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

No special provisions have been developed. This regulation merely updates the referenced codes and incorporates the statutory amendments.

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

This regulation will be effective on December 31, 2006. This date was chosen to give municipalities, which have opted to enforce the UCC, adequate time to implement the changes made by the 2006 national code editions.

(31) Provide the schedule for continual review of the regulation.

The regulation will be reviewed and updated as the national standards, adopted by the regulation, are updated. Based on the updating of national standards, the Department expects to update the regulation every 3 years.

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REVIEW COMMISSION

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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: _____</p> <p>DEPUTY ATTORNEY GENERAL</p> <p>_____ DATE OF APPROVAL</p> <p>Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>Department of Labor & Industry (AGENCY)</p> <p>DOCUMENT / FISCAL NOTE NO. 12-75</p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>Stephen M. Schmerin</u></p> <p>TITLE: Secretary (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY: <u>Andrew C. Clark</u></p> <p>OCT 12 2006 DATE OF APPROVAL</p> <p>Deputy General Counsel</p> <p>Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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FINAL RULEMAKING (Proposed Omitted)

DEPARTMENT OF LABOR AND INDUSTRY

34 PA. CODE, CHAPTERS 401-405, PART XIV

TRAINING AND CERTIFICATION REQUIREMENTS FOR CODE ADMINISTRATORS
ADMINISTRATION
ELEVATORS AND OTHER LIFTING DEVICES

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FINAL RULEMAKING (Proposed Omitted)

Title 34 Labor and Industry

Uniform Construction Code

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Training and Certification Requirements for Code Administrators

Administration

Elevators and Other Lifting Devices

Chapters 401-405

[34 Pa. Code, Part XIV, Chapters 401-405]

The Secretary of Labor and Industry (Secretary), under the authority of section 301 of the Pennsylvania Construction Code Act (Act) (35 P.S. § 7210.301), amends §§ 401.1 (relating to definitions), 401.2 (relating to department fees), 401.5 (relating to waivers), 403.1 (relating to scope), 403.21 (relating to the Uniform Construction Code), 403.25 (relating to manufactured and industrialized housing), 403.26 (relating to swimming pools), 403.45 (relating to inspections), 403.46 (relating to certificates of occupancy), 403.62 (relating to permit requirements and exemptions), 403.62a (relating to permit applications), 403.65 (relating to certificate of occupancy), 403.102 (relating to municipalities electing to enforce the Uniform Construction Code), 405.2 (relating to standards), 405.7 (relating to periodic inspections) and 405.11 (relating to accident reports) and adds §403.28 (relating to uncertified buildings) to read as set forth in Appendix A.

The Department of Labor and Industry (Department) under section 204 of the act of July 31, 1968 (P.L. 769, No. 240)(45 P.S. §1204), known as the Commonwealth Documents Law (CDL), and 1 Pa. Code § 7.4 (relating to omission of notice of proposed rulemaking), finds that notice of proposed rulemaking under the circumstance is unnecessary and impractical, and therefore may be omitted.

The Department's justification for utilizing the proposed rulemaking omitted process is that the only changes being made in this amendment are those either mandated by the Act or those that reflect the numerous statutory amendments to the Act. Section 304 of the Act (35 P.S. § 7210.304) requires the Department, by December 31 of the year of the issuance of a new triennial BOCA National Building Code, or its successor building code, to promulgate regulations adopting the new code as the Uniform Construction Code. The International Code Council and ANSI updated their national codes and issued 2006 editions early in 2006. The Act was amended by: Act 43 of 2001 (Act 43); Acts 13, 92 and 230 of 2004 (Acts 13, 92 and 230 respectively); Act 95 of 2005 (Act 95); and Act 108 of 2006 (Act 108). Acts 43, 13, 92, 230, 95 and 108 made numerous statutory changes which are reflected in this amendment. This amendment also reflects changes made to section 613-A of the "Administrative Code of 1929" by Act 47 of 2003 (Act 47).

Purpose of the Final-Omitted Rulemaking

The purpose of this final-omitted rulemaking is to update §§ 403.21, 403.26, 405.2 as required by 35 P.S. § 7210.304, to the new successor building codes issued by International Code Council and ANSI, and, to incorporate the 2001 through 2005 statutory amendments to the Act in §§ 401.1, 401.2, 401.5, 403.1, 403.25, 403.45, 403.46, 403.62, 403.62a, 403.65, 403.102, 405.7, and 405.11.

Explanation of Regulatory Requirements

Section 401.1. Definitions.

The definitions of *addition*, *alteration*, *recreational cabin*, *residential building* and *uncertified building* are added to the regulation. Act 92 and Act 95 added these definitions to the Pennsylvania Construction Code Act. The Department is adding these definitions to further explain this amendment and for the convenience of the regulation users.

Act 92 also made changes to the definitions of *agricultural building* and *utility and miscellaneous use structures*. Act 92 changed the definition of *agricultural building* to include milk houses and carriage houses owned and used by members of a recognized religious sect for the purposes of housing horses and storing buggies. It changed the definition of *utility and miscellaneous use structures* to include buildings having an area of less than 1,000 square feet. The Department had not included the previous definition of *utility and miscellaneous use structures* in its Uniform Construction Code (UCC) regulation. However, the amendments to section 503 of the Act changed the size of structures where a municipality may pass an ordinance stricter than the UCC. The Department determined that inclusion of this definition in the regulations would help clarify the ordinance change requirements. This amendment reflects the statutory changes to these mentioned definitions.

The definitions for *ICC Electrical Code*, *International Building Code*, *International Energy Conservation Code*, *International Existing Building Code*, *International Fire Code*, *International Fuel Gas*, *International Mechanical Code*, *International Performance Code*, *International Plumbing Code*, *International Residential Code*, *International Wildland-Urban Interface Code*, *Pennsylvania's alternative residential energy provisions* and *Uniform Construction Code* are amended in this regulation to reflect the most current editions required by section 304 of the Act. In this amendment, the publication year in each definition is being changed from 2003 to 2006.

In the definitions, the name of the *International Urban-Wildland Interface Code* has been changed to the *International Wildland-Urban Interface Code* to reflect the International Code Council's change to its publication.

The definition of *NSPI* is being replaced with the definition of *APSP* reflecting the name change of the national organization publishing the pool and spa standards. The name of the organization changed from the National Spa & Pool Institute to the Association of Pool and Spa Professionals.

Section 401.2. Department Fees.

The fees for elevators and lifting devices are amended in accordance with the fee changes made by Act 47.

Section 401.5. Waivers.

Section 401.5(c) is amended to reflect the Act 92 and Act 108 change that added and then amended 35 P.S. § 7201.701(b)(2) allowing a code administrator to act in place of a lumber grading or inspection agency to satisfy the requirements in section 2303.1.1 of the “International Building Code” and sections R404.2.1, R502.1, R602.1, R802.1 of the “International Residential Code.” (35 P.S. § 7210.701(b)(2)).

Section 403.1. Scope.

Section 403.1 (a)(2) is added to continue the intent of section 104(b)(2) of the Act (35 P.S. § 7210.104(b)(2)) and to clarify what UCC requirements apply to buildings already under a design or construction contract. Buildings under a contract for design or construction at the time these UCC amendments take effect need only comply with the UCC requirements in effect when the design contract was executed. The purpose is to save building owners time and expense, and not to require redesign or resubmission of plans for buildings in the construction process as was provided for during the initial code adoption process.

Section 403.1(b) is amended to include exemptions added to the UCC by Acts 43, 13, 92, 95 and 230. Section 403.1(b)(3) is amended to reflect changes to the definition of “utility and miscellaneous use structures” by Act 92 (35 P.S. §§ 7210.103 (definition of *Utility and miscellaneous use* structures)). The area of a utility and miscellaneous use structure has been changed from 500 to 1000 square feet. A municipality may now adopt a more stringent ordinance for these structures under 1000 square feet. (35 P.S. § 721.503(c)).

Subsections 403.1(b)(8) and (9) are amended to reflect the Act 92 UCC exclusion for alterations and repairs to residential buildings which do not make structural changes or changes to means of egress. (35 P.S. § 7210.104(b)(5)).

Under Act 108, subsection 403.1(b)(10) is added to exempt the installation of aluminum siding or siding onto an existing residential or an existing commercial building, except as might be required by ordinances in effect before July 1, 1999 or change ordinances promulgated under section 503 of the Act which meet or exceed the UCC. (35 P.S. §§ 7210.303(b)(1), 7210.503).

Subsections 403.1(b)(11) and (c) are amended to reflect the recreational cabin exclusion from the UCC made by Act 92. Recreational cabins are excluded from UCC requirements if the cabins meet the criteria of sections 103 (definition of *Recreational cabin*) and 104(b)(7). (35 P.S. §§ 7210.103, 7210.104(b)(7)). The continuity of the UCC exclusion continues upon the sale of a recreational cabin if the criteria in section 104(b)(7)(b.1) are met.

Subsection 403.1(f) is added to reflect the exclusion of one-room school houses utilized by members of recognized religious sects whose religious beliefs conflict with the electrical provisions and the lumber and wood provisions of the UCC. This exclusion requires that the one-room school house be used only by members of the religious sect. This reflects the amendments made by Act 92 and Act 108. (35 P.S. § 7210.901(b)).

Subsection (g) is added to Section 403.1 to reflect that coal-fired boilers installed in residential buildings are not required to meet the stamping requirements of M2001.1.1 of the "International Residential Code" which requires an ASME stamp on all boilers. These boilers are still required to be designed, constructed and tested in accordance with the requirements of Chapter 20, section M2001.1.1. This reflects the amendment made by Act 108. (35 P.S. § 7210.901(d)).

Section 403.21. Uniform Construction Code.

Subsections 403.21(a)(5)(i)-(ii) are added as exceptions to the adoption of the "International Plumbing Code." Act 92 (35 P.S. § 7210.501(a.1)) exempts municipalities in counties of the second class from the plumbing code provisions of the UCC if the county has adopted a plumbing code and accompanying rules and regulations pursuant to the "Local Health Administration Law." (16 P.S. §§ 12001-12028). Under Act 92, the county retains the authority to promulgate and enforce the existing plumbing code and to make any changes it deems necessary if the changes meet the minimum requirements of the Uniform Construction Code.

Subsections 403.21(a)(6)(i)-(ii) are added as exceptions to the adoption of the "International Residential Code." Act 92 requires the Department to exclude section R313.1.1 of the "International Residential Code for One- and Two-Family Dwellings" requiring interconnected smoke alarms from applying to existing one-family and two-family dwellings undergoing alterations, repairs or additions. The Department, as part of the UCC regulation, must instead require non-interconnected battery-operated smoke alarms to be installed. (35 P.S. § 7210.301(a)(8)).

Act 13 requires the Department to include in the UCC regulation an exception to the stairway tread and riser provisions of the International Residential Code. This exception makes permanent the original exception in the Act which was to continue only until December 31, 2003. (35 P.S. § 7210.301(a)(6)). The exception requires stairway treads and risers to meet section 1014.6 (relative to stairway treads and risers) of the 1993 BOCA National Building Code, Twelfth Edition, and the provisions of section R-213.1 (relative to stairways) of the

CABO One and Two Family Dwelling Code, 1992 Edition. These stairway provisions are fully set out under § 403.21(a)(6)(ii). Section 403.21(d), which originally addressed the requirement that expired on December 31, 2002, is deleted.

Section 403.21(a)(9) adopting sections AE501-AE503 and AE601-AE605 of Appendix E of the "International Residential Code," is deleted. Section 6 of Act 158 of 2004 amended the "Manufactured Housing Improvement Act" to require that a manufactured home be installed in accordance with the manufacturer's approved instructions or under the UCC if there are no approved instructions covering an installation activity. (35 P. S. §§ 1658.1-1658.6).

Section 403.25. Manufactured and industrialized housing.

Subsection (a)(1) and (2) are amended to reflect the changes to the UCC made by Section 6 of Act 158 of 2004 which amended the "Manufactured Housing Improvement Act." (35 P. S. §§ 1658.1-1658.6). The installation of new manufactured housing must be installed according to the manufacturer's approved design and instructions. Construction activities or processes including utility connections and grading not addressed by the manufacturer's approved design must comply with the Uniform Construction Code.

Section 403.26. Swimming pools.

Section 403.26 is amended to reflect the change in the name of the national association publishing pool guidelines from the National Spa & Pool Institute to the Association of Pool and Spa Professionals. It also updates the version of the ANSI/NSPI-1 standard for public pools from the 1991 version to the 2003 version.

Section 403.28. Uncertified buildings.

Section 403.28 is added pursuant to Act 95 which specifically established requirements for uncertified buildings. Buildings within the Department's jurisdiction are covered by subsections (a) and (b). Section 403.28(a) provides that buildings constructed before April 27, 1927 are deemed to be legally occupied until the owner proposes to renovate, add an addition, alter or change the occupancy of the building. Any renovation, addition, alteration and change in occupancy in pre-1927 buildings must comply with the Uniform Construction Code. (35 P.S. § 7210.902(b)).

Section 403.28(b) provides that all other uncertified buildings within the Department's jurisdiction must meet certain minimum building code requirements related to maximum story height, minimum allowable construction type based on floor area, vertical opening and shaft protection, means of egress and maximum travel distance requirements. The building must also meet the fire safety requirements in the "International Building Code" for fire alarms, extinguishers, heat and smoke detectors, sprinkler systems and use separations.

If construction began on a building before May 19, 1984, automatic sprinkler systems are not required. If construction began on a building after May 19, 1984, automatic sprinkler systems are only required if the building is classified in use groups E (educational), H (high-hazard), I (institutional), or R-1 or R-2 (residential) or if the building has occupied floors more than 75 feet above the lowest level of fire department access. For buildings in use groups R-1 and R-2 which do not have occupied floors more than 75 feet above lowest level of fire department access, hard-wired interconnected heat and smoke detectors may be installed instead of automatic sprinkler systems. If construction began after May 18, 1984, automatic sprinkler installation is required, and the system must be installed by December 22, 2010.

Section 403.28(b) also provides accessibility requirements for uncertified buildings within the Department's jurisdiction. There are no accessibility requirements if construction began before September 1, 1965. If construction began after August 31, 1965 and before February 18, 1989, and if the building is a state-owned building, a restaurant or a retail commercial establishment, the building must have at least one accessible main entrance and an accessible route from the accessible entrance to any public spaces on the same level as the accessible entrance. If toilet rooms are provided, the building must have at least one toilet room for each sex or a unisex toilet room complying with the accessibility requirements of the "International Building Code." If construction began after February 17, 1989, all accessibility requirements of the "International Building Code" apply.

Under § 403.28(b) structural requirements will not be imposed unless the Department determines that the building or a portion of the building has defects that would be defined as dangerous in the "International Existing Building Code." If the building is determined to be dangerous, the Department may impose only those requirements minimally necessary to remove danger to the building's occupants.

Section 403.28(c) covers uncertified buildings which are under the jurisdiction of local government. Under this section, a construction code official must issue a certificate of occupancy to an uncertified building if it meets the requirements of the latest version of the "International Existing Building Code" or Chapter 34 of the "International Building Code." A construction code official may deny the issuance of a certificate of occupancy only if the official deems that a building is unsafe because of inadequate means of egress, inadequate lighting and ventilation, fire hazards or other dangers to human life or to public welfare.

§ 403.45. Inspections.

The Department corrected the citation to the fire protection certification in § 403.45(e) from § 401.7(13) to § 401.7(6). Subsection (f) was added to reflect the Act 92 amendment that allows a code administrator to act in place of a lumber grading or inspection agency to satisfy the requirements in section 2303.1.1 of the "International Building Code." (35 P.S. § 7210.701(b)(2)).

§ 403.62. Permit requirements and exemptions.

Section 403.62(c) is amended to reflect Act 92's amendment to section 104(b) which excludes from the UCC repairs and alterations to residential buildings which do not make structural changes or changes to means of egress and repairs. (35 P.S. § 7210.104(b)). Act 92 specifically states that a structural change does not include a minor framing change needed to replace existing windows or doors.

Section 403.62(c) originally enumerated the exemptions from Chapter 1 of the "International Residential Code." Since the statute now exempts all residential repairs and alterations that do not make structural changes, the Department simplified this section by deleting all references to window and door, and glass replacements in the same opening. The Department also deleted the list of minor electrical work, appliance replacement, gas work, mechanical work, plumbing work, and heating ventilation and air conditioning work that are exempt from the UCC and permitting requirements.

Section 403.62(d) is amended to clarify work that does not constitute ordinary repairs under the Act 92 amendment. The cutting away of a wall was changed to reference a load-bearing wall, partition or portion of a wall only. Work to any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical was amended to include only the addition or relocation.

§ 403.62a. Permit application.

A grammatical correction was made to subsection (e). The word *structure's* was changed to *structures.*

§ 403.65. Certificate of occupancy.

Act 95 requires the Department to adopt section 110.3 (relating to temporary occupancy) of the "International Building Code" as part of this regulation. (35 P.S. § 7210.301(a)(9)). Section 403.65(f) was added to allow a building code official to issue a temporary certificate of occupancy for a portion or portions of the building or structure before the completion of the entire work covered by the permit if the portion or portions may be occupied safely. The building code official must set a time period for which the temporary permit will be valid.

§ 403.102. Municipalities electing to enforce the Uniform Construction Code.

In addition to changing the definition of "utility and miscellaneous use structure" by increasing the floor space from 500 to 1000 square feet, Act 92 amended section 503(c) of the Act to allow municipalities to enact ordinances which adopt stricter code requirements than required by the UCC for the regulation of these structures. (35 P.S. § 7210.503(c)). Before Act

92, municipalities could not regulate utility and miscellaneous use structures by ordinance. Section 403.102(i) is amended to reflect that municipalities can now adopt more stringent requirements than the UCC for these structures when the structures are less than 1000 square feet.

§ 405.2. Standards.

Section 405.2(a)(4) is amended to reference the 2006 edition of ANSI B77.1. This change reflects the Act 230 amendment to section 302 (relating to referenced standards) to reference the latest ANSI standards applicable to the operation of ski lifts (35 P.S. § 7210.302(a)(2)).

§ 405.11. Accident report.

Section 405.11 is amended to exclude the equipment shut-down requirements due to non-fatal accidents from ski lifts. This section reflects section 3 of Act 230, specifically excluding ski lifts from § 405.11(e) of the regulations.

Fiscal Impact

The Department has determined that the final-omitted rulemaking will have no adverse fiscal impact on the Commonwealth.

Paperwork

The final-omitted rulemaking will not generate substantial paperwork for the public or the Commonwealth.

Sunset Date

The final-omitted rulemaking will become effective on December 31, 2006. The regulation is scheduled for review within 3 years of final publication. No sunset date has been assigned.

Contact Person

The contact person is Edward Leister, Assistant Director, Bureau of Occupational and Industrial Safety, Labor and Industry Building, 16th floor, Harrisburg, PA 17120. E-mail: eleister@state.pa.us.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on October 20, 2006, the Department submitted a copy of the regulations with proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and to the

Chairpersons of the Senate Committee on Labor and Industry and the House Committee on Labor Relations. On the same date, the regulations with proposed rulemaking omitted were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101--732-506).

In accordance with section 5.1(j.1) of the Regulatory Review Act, the final-omitted rulemaking was deemed approved by the Committees on _____, 2006. IRRC met on _____, 2006, and approved the final-omitted rulemaking under section 5.1(e) of the Regulatory Review Act.

Findings

The Department finds that the final-omitted rulemaking is necessary and appropriate for the administration and enforcement of the authorizing statute. Under section 204 of the Commonwealth Documents Law, the Department also finds that the proposed rulemaking procedures in sections 201 and 202 of the Commonwealth Documents Law (45 P. S. §§ 1201 and 1202) are unnecessary because it is in the public interest to expedite this amended regulation.

Order

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

(a) The regulations of the Department, 35 Pa. Code, Chapters 401-405, are amended by amending §§ 401.1, 401.2, 401.5, 403.1, 403.21, 403.25, 403.26, 403.45, 403.46, 403.62, 403.62a, 403.65, 403.102, 405.2, 405.7 and 405.11 and adding § 403.28 to read as set forth in Annex A.

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

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

(d) This order shall take effect on December 31, 2006.



Stephen M. Schmerin
Secretary

RECEIVED

Annex "A"
Training and Certification Requirements for Code Administrators
Administration
Elevators and Other Lifting Devices
Chapters 401-405
[34 Pa. Code, Part XIV, Chapters 401-405]

10 AUG 20 12:33
INDEPENDENT REGULATORY
REVIEW COMMISSION

§ 401.1. Definitions.

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

Addition -- An extension or increase in floor area or height of a building or structure.

Agricultural Building -- A structure utilized to store farm implements, hay, feed, grain or other agricultural or horticultural products or to house poultry, livestock or other farm animals and a milk house. The term includes a carriage house owned and used by members of a recognized religious sect for the purposes of housing horses and storing buggies. The term shall not include habitable space or spaces in which agricultural products are processed, treated or packaged and shall not be construed to mean a place of occupancy by the general public.

Alteration -- Any construction or renovation to an existing structure other than repair or addition.

APSP -- The Association of Pool and Spa Professionals, 2111 Eisenhower Avenue, Alexandria, VA 22314-4695

* * *

ICC Electrical Code -- The "ICC Electrical Code-Administrative Provisions [2003] 2006" (first printing) issued by the ICC. The term includes all errata issued by the ICC.

* * *

International Building Code -- Chapters 2-29 and 31-35 of the "International Building Code [2003] 2006" (first printing), issued by the ICC. The term includes all errata issued by the ICC.

International Energy Conservation Code -- The "International Energy Conservation Code [2003] 2006" (first printing) issued by the ICC. The term includes all errata issued by the ICC.

* * *

International Existing Building Code -- The "International Existing Building Code for Buildings and Facilities [2003] 2006" ([F]first p[P]rinting) issued by the International Code Council. The term includes all errata issued by the ICC.

International Fire Code -- The "International Fire Code [2003] 2006" (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International Fuel Gas Code -- The "International Fuel Gas Code [2003] 2006" (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International Mechanical Code -- The "International Mechanical Code [2003] 2006" (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International Performance Code -- The "International Performance Code for Buildings and Facilities [2003] 2006" ([F]first p[P]rinting) issued by the ICC. The term includes all errata issued by the ICC.

International Plumbing Code -- The "International Plumbing Code [2003] 2006" (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International Residential Code -- The "International Residential Code for One- and Two-Family Dwellings [2003] 2006" (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International [Urban-Wildland] Wildland-Urban Interface Code -- The "International [Urban-Wildland] Wildland-Urban Interface Code [2003] 2006" issued by the ICC. The term includes all errata issued by the ICC.

* * *

[NSPI—National Spa & Pool Institute, 2111 Eisenhower Avenue, Alexandria, Virginia 22314]

* * *

Pennsylvania's alternative residential energy provisions—The “Pennsylvania Alternative Residential Energy Provisions” issued in 2006 by the PHRC.

* * *

Recreational Cabin— A structure where all of the following apply:

1. Utilized principally for recreational activity.
2. Not utilized as a domicile or residence for any individual for any time period.
3. Not utilized for commercial purposes.
4. Not greater than two stories in height, excluding basement.
5. Not utilized by the owner or any other person as a place of employment.
6. Not a mailing address for bills and correspondence.
7. Not listed as an individual's place of residence on a tax return, driver's license, car registration or voter registration.

* * *

Residential building – [Construction that relates to] Detached one-family and two-family dwellings and multiple single-family dwellings [(townhouses) that] which are not more than three stories in height with a separate means of egress which includes [the dwellings'] accessory structures.

* * *

Uniform Construction Code -- This chapter; "The International Building Code First Edition [2003] 2006" and the "International Residential Code for One- and Two-Family Dwellings [2003] 2006," available from the International Code Council, Inc., 4051 W. Flossmoor Road, Country Club Hills, Illinois 60478-5795, 1 (800) 786-4452; and any standards adopted by the Department in this chapter under section 301 of the act (35 P. S. § 7210.301).

* * *

Uncertified building – An existing building which was not approved for use and occupancy by the Department or a municipality which was enforcing a

building code before April 9, 2004. The term does not include a residential building.

Utility and miscellaneous use structures -- Buildings or structures of an accessory character and miscellaneous structures not classified by the ICC in any specific use group. The term includes carports, detached private garages, greenhouses and sheds having a building area less than 1,000 square feet. The term does not include swimming pools or spas.

401.2. Department fees.

* * *

(c) The following fees apply to plan review and application for a permit for installation:[the issuance of a permit for the installation or repair of an elevator and lifting device:

(1) Electric elevator	
(i) 1 to 10 openings	\$300
(ii) Each additional opening (per opening)	\$10
(2) Roped hydraulic elevator and roped/chained reciprocating conveyors	\$300
(3) Hydraulic elevator, limited use/limited access elevator and direct acting hydraulic vertical reciprocating conveyor	\$200
(4) Aerial tramway and aerial detachable lift	
(i) Basic fee	\$500
(ii) Additional fee per tower over 15 towers	\$35
(5) Aerial lift, fixed	
(i) Basic fee	\$300
(ii) Additional fee per tower over ten towers	\$35
(6) Surface lift, tow and conveyor	\$200]
(1) <u>Passenger, freight and combination passenger/freight elevators (not hydraulic elevators):</u>	
(i) 1-7 floors	\$363

(ii) 8-20 floors		\$436
(iii) More than 20 floors		\$508
<hr/>		
(2) Hydraulic passenger, freight, combination passenger/freight elevators and other lifting devices		\$290
<hr/>		
(3) Ski Lifts		\$508
<hr/>		
[(7)] (4) Escalator and moving walks	[\$300]	\$290
<hr/>		
[(8)] (5) Wheelchair lift and inclined stairway chairlift		\$150
<hr/>		
[(9)] (6) Orchestra lift, belt manlift, stage lift, organ lift and other lifting devices		\$300
<hr/>		
[(10)] (7) Permit for alterations and major repairs	[\$200]	\$145
<hr/>		
[(11)] (8) Reinspection following failed major repair inspection (per inspection)	\$100 paid before reinspection	
<hr/>		
[(12)] (9) Reinspection following failed acceptance inspection (to a maximum of \$300 per inspection)	50% of initial permit fee paid before reinspection	
<hr/>		
[(13)] (10) Revision of plans	50% of initial permit fee.	

(d) The following fees shall apply to periodic elevator and other lifting device inspections under § 405.7 (relating to periodic inspections):

(1) [Electric elevator with one to ten openings] <u>Passenger, freight and combination passenger/freight elevators (not hydraulic):</u>	[\$ 75
(2) Electric elevator with 11 to 20 openings	\$100
(3) Electric elevator with more than 20 openings	\$125]
(i) <u>One to seven floors</u>	\$ 94

<u>(ii) Eight to 20 floors</u>	<u>\$116</u>
<u>(iii) More than 20 floors</u>	<u>\$145</u>

[(4) Roped hydraulic elevator, roped/chained vertical reciprocating conveyor, rack and pinion elevator, special purpose personnel elevator, power sidewalk elevator, roof-top elevator and elevator used for construction \$ 75

(5) Hydraulic elevator, limited use/limited access elevator, screw column elevator, hand elevator, inclined elevator, dumbwaiter and direct acting hydraulic vertical reciprocating conveyor \$ 60

(6) Aerial tramway and aerial detachable lift \$150

(7) Aerial lift, fixed \$100

(8) Surface lift, tow and conveyor \$ 75]

(2) Hydraulic passenger, freight, combination passenger/freight elevators and other lifting devices \$73

(3) Ski Lifts \$145

[(9)](4) Wheelchair lift and inclined stairway chairlift \$75

[(10)](5) Escalator and moving walk [\$ 50] \$94

[(11)](6) Orchestra lift, belt manlift, stage lift, organ lift and other lifting devices \$75

(e) The following fees shall apply to witnessing periodic tests under § 405.8 (relating to periodic testing):

(1) Electric elevators with one to ten openings \$125

(2) Electric elevators with 11--20 openings \$150

(3) Electric elevators with more than 20 openings \$175

(4) Roped hydraulic elevator and roped/chained vertical reciprocal conveyor \$110

(5) Hydraulic elevator, limited use/limited application elevator and direct hydraulic vertical reciprocating conveyor	\$ 85
(6) Escalator and moving walks	\$ 85
(7) Wheelchair lift and inclined stairway chairlift	\$ 75
(8) Orchestra lift, [belt manlift,] stage lift and organ lift	\$125
(9) Other equipment	\$ 85

(f) The following fees shall apply to the witnessing of periodic dynamic testing required under § 405.9 (relating to periodic dynamic testing):

(1) Aerial tramways	\$300
(2) Detachable aerial grips	\$300
(3) Fixed grip aerial lifts	\$200

(g) The following fees shall apply to a certificate of operation:

(1) Annual Renewal	[\$ 25] <u>\$36</u>
(2) Duplicate	\$25

* * *

§ 401.5. Waivers.

* * *

(c) A code administrator may act in place of a lumber grading or inspection agency to satisfy the requirement set forth under section 2303.1.1 of the International Building Code or its successor code or sections R404.2.1, R502.1, R602.1, R802.1 of the “International Residential Code” or its successor code under section 701(b)(2) of the act (35 P.S. § 7210.701(b)(2)).

§ 403.1. Scope.

(a) *Application.*

(1) The Uniform Construction Code applies to the construction, alteration, repair, movement, equipment, removal, demolition, location,

maintenance, occupancy or change of occupancy of every building or structure which occurs on or after April 9, 2004, and all existing structures that are not legally occupied.

(2) The Department will promulgate regulations adopting the new triennial BOCA National Building Code, or its successor building code as the Uniform Construction Code by December 31 of the year of the issuance under section 304(a)(1) of the act (35 P.S. § 7210.304(a)(1)). New buildings or renovations to existing buildings for which a design or construction contract was executed before the effective date of the regulatory amendment adopting the latest triennial versions of the construction codes and standards shall comply with the codes and standards in effect at the time that the design or construction contract was executed.

(b) *Exclusions and exemptions.* The Uniform Construction Code does not apply to:

(1) New buildings or renovations to existing buildings for which an application for a permit was made to the Department or a municipality before April 9, 2004.

(2) New buildings or renovations to existing buildings on which a contract for design or construction was signed before April 9, 2004.

(3) The following structures if the structure has a building area less than [500] 1000 square feet and is accessory to a detached one-family dwelling except as might be required by an ordinance adopted under section 503 of the act (35 P. S. § 7210.503):

- (i) Carports.
- (ii) Detached private garages.
- (iii) Greenhouses.
- (iv) Sheds.

(4) An agricultural building.

(5) Manufactured or industrialized housing shipped from the factory under section 901(a) of the act (35 P.S. § 7210.901(a)) as provided in § 403.25 (relating to manufactured and industrialized housing).

(6) Installation of tubing, piping, propane gas burning appliances, equipment or fixtures related to liquefied petroleum gas under the Propane and Liquefied Petroleum Gas Act (35 P. S. § § 1329.1—1329.19).

(7) Construction of individual sewage disposal systems under 25 Pa. Code Chapter 73 (relating to onlot sewage treatment facilities).

(8) Alterations to residential buildings which do not make structural changes or changes to means of egress, except as required by ordinances in effect under sections 303(b)(1) or 503 of the act (35 P.S. §§ 7210.303(b)(1), 7210.503). Under this subsection, a structural change does not include a minor framing change needed to replace existing windows or doors.

(9) Repairs to residential buildings, except as required by ordinances in effect under sections 303(b)(1) and 503 of the act.

(10) Installation of aluminum or vinyl siding onto an existing residential or an existing commercial building, except as might be required by ordinances in effect under section 301(b)(1) or 503 of the act. (35 P.S. §§ 7210.303(b)(1), 7210.503).

(11) A recreational cabin if all of the following are met:

(i) The cabin is equipped with at least one smoke detector, one fire extinguisher and one carbon monoxide detector in both the kitchen and sleeping quarters.

(ii) The owner of the cabin files one of the following with the municipality:

(A) A Department form UCC-13 attesting to the fact that the cabin meets the definition of a "recreational cabin" in 401.1 (relating to definitions).

(B) A valid proof of insurance for the recreational cabin, written and issued by an insurer authorized to do business in this Commonwealth, stating that the structure meets the definition of a "recreational cabin."

(c) Continuity of recreational cabin exclusion.

(1) Upon the transfer of ownership of a recreational cabin subject to the recreational cabin exclusion, written notice of all of the following must be provided in the sales agreement and the deed:

(i) The recreational cabin is exempt from the act.

(ii) The recreational cabin may not be in conformance with the Uniform Construction Code.

(iii) The recreational cabin is not subject to municipal regulation.

(2) Failure to comply with the notice requirement under subsection (c) (1) shall render the sale void at the purchaser's option.

(d) Prior permits and construction.

(1) A permit issued under construction regulations before April 9, 2004, remains valid and the construction of the building or structure may be completed in accordance with the approved permit. The permit is invalid unless the construction commenced within 2 years of permit issuance or a time period specified by municipal ordinance, whichever is less. The permit holder shall acquire a new permit under section 104(c) of the act (35 P. S. § 7210.104(c)) if the permit was not actively prosecuted during this time period.

(2) Construction may be completed without a permit under section 104(c)(2) of the act where construction of a building or structure commenced before April 9, 2004, and a permit was not required at that time.

(3) The legal occupancy of a structure existing on April 9, 2004, may continue without change except where the Uniform Construction Code provides otherwise.

[(d)] (e) The Uniform Construction Code applies to the construction of a residential building or structure governed by a homeowner's or community association under section 104(d)(2)(ii) of the act.

[(e) An] (f) The electrical provision, and lumber and wood provisions, not relating to pressure treatment, of the Uniform Construction Code [does] do not apply to a dwelling unit or one-room school house utilized by a member or members of a recognized religious sect if a code

administrator grants an exemption under section 901(b) of the act (35 P. S. § 7210.901(b)) as follows:

(1) The permit applicant shall file an application with the code administrator stating the manner in which an electrical provision, and the lumber and wood provision unrelated to pressure treatment of the Uniform Construction Code conflicts with the applicant's religious beliefs. The application shall also contain an affidavit by the applicant stating:

(i) The permit applicant is a member of a religious sect.

(ii) The religious sect has established tenets or teachings which conflict with an electrical provision and lumber and wood provisions unrelated to pressure treatment of the Uniform Construction Code.

(iii) The permit applicant adheres to the established tenets or teachings of the sect.

[(iv)] (A) [The] For a dwelling unit, the dwelling will be used solely as a residence for the permit applicant and the applicant's household.

[(v)] (B) For a one-room school house, the school house will be used solely by members of the religious sect.

(2) The code administrator shall grant the application for the exemption if made in accordance with paragraph (1).

(3) If the permit applicant receives an exemption for [a dwelling unit] a building under section 901(b) of the act and the applicant subsequently sells or leases the [dwelling unit] building, the applicant shall bring the [dwelling unit] building into compliance with the provision of the Uniform Construction Code from which it was exempted prior to the [dwelling unit being sold or leased] sale or lease of the building unless the prospective subsequent owner or lessee files an affidavit in compliance with paragraph (1).

(g) Coal-fired boilers installed in residential buildings shall be designed, constructed and tested in accordance with the requirements of Chapter 20, section M2001.1.1 of the “International Residential Code”, except for the ASME stamping requirement.

§ 403.21. Uniform Construction Code.

(a) The Department adopts and incorporates by reference the following codes as the Uniform Construction Code:

(1) The provisions of Chapters 2—29 and 31—35 of the “International Building Code.”

(2) The “ICC Electrical Code.”

(3) The “International Mechanical Code.”

(4) The “International Fuel Gas Code.”

(5) The “International Plumbing Code.”

(i) Except that a municipality within a county of the second class shall not administer and enforce the “International Plumbing Code” adopted under this chapter.

(ii) A municipality within a county of the second class that has adopted a plumbing code and accompanying rules and regulations under the act of August 23, 1951 (P.L. 1304, No. 315) (16 P.S. §§ 12001-12028), known as the Local Health Administration Law, shall retain the authority to promulgate and enforce this plumbing code and to make any changes it deems necessary if the changes meet the Uniform Construction Code’s minimum requirements.

(6) The “International Residential Code.”

(i) Except that the provisions of R313.1.1 requiring interconnected smoke alarms shall not apply to one-family and two-family dwellings undergoing alterations, repairs or additions. Non-interconnected battery operated smoke alarms shall be installed in these dwellings.

(ii) Except that the following specifications will apply to all residential stairway treads and risers.

(A) The maximum riser height is 8 1/4 inches. There may be no more than a 3/8 inch variation in riser height within a flight of stairs. The riser height is to be measured vertically between leading edges of the adjacent treads.

(B) The minimum tread depth is 9 inches measured from tread nosing to tread nosing.

(C) The greatest tread depth within any flight of stairs may not exceed the smallest by more than 3/8 inch.

(D) All treads may have a uniform projection of not more than 1 1/2 inches when solid risers are used.

(E) Stairways may not be less than 3 feet in clear width and clear headroom of 6 feet 8 inches shall be maintained for the entire run of the stair.

(F) Handrails may project from each side of a stairway a distance of 3 1/2 inches into the required width of the stair.

(7) The "International Fire Code." Section 804.1.1 of the International Fire Code (relating to natural cut trees) is not adopted under this chapter. A municipality that elects to adopt an ordinance for the administration and enforcement of the Uniform Construction Code may, by ordinance, restrict the placement of natural cut trees in an occupancy group. The ordinance restricting the placement of natural cut trees is not subject to section 503(b) through (k) of the act (35 P.S. § 7210.503(b)-(k)) and § 403.102(i)-(k) of this chapter (relating to municipalities electing to enforce the Uniform Construction Code).

(8) The "International Energy Conservation Code."

(9) [Sections AE501-AE503 and AE601-AE605 of Appendix E of the "International Residential Code."]

[(10)] The "International Existing Building Code."

[(11)] (10) The “International [Urban-Wildland] Wildland-Urban Interface Code.”

[(12)] (11) Appendix E of the “International Building Code.”

(13)] Appendix H of the “International Building Code.”

(12) Appendix G of the International Residential Code.”

* * *

(d) [Until December 31, 2003, a permit applicant shall use one of the following specifications for stairway construction in use groups R-3, within dwelling units in occupancies in use group R-2 and in occupancies in use group U which are accessory to an occupancy in use group R-3. The "International Residential Code" will apply to stairway construction in use group R-3 after December 31, 2003:

(1) Specifications utilized in place of exception 5 under section 1003.3.3.3 of the "International Building Code":

(i) The maximum riser height shall be 8 1/4 inches.

(ii) The minimum tread depth shall be 9 inches.

(iii) A 1-inch nosing shall be provided on all stairways with solid risers.

(2) Stairway specifications utilized in place of section R-314.2 of the "International Residential Code":

(i) The maximum riser height is 8 1/4 inches. There may be no more than a 3/8 inch variation in riser height within a flight of stairs. The riser height is to be measured vertically between leading edges of the adjacent treads.

(ii) The minimum tread depth is 9 inches measured from tread nosing to tread nosing.

(iii) The greatest tread depth within any flight of stairs may not exceed the smallest by more than 3/8 inch.

(iv) All treads may have a uniform projection of not more than 1 1/2 inches when solid risers are used.

(v) Stairways may not be less than 3 feet in clear width and clear headroom of 6 feet 8 inches shall be maintained for the entire run of the stair.

(vi) Handrails may project from each side of a stairway a distance of 3 1/2 inches into the required width of the stair.

(e)]_A permit applicant may utilize one of the following prescriptive methods to demonstrate compliance with the energy conservation requirements of the Uniform Construction Code. The standards are those listed for the climatic zone of this Commonwealth where the building or structure is located:

(1) The prescriptive methods for detached residential buildings contained in the current version of the "International Energy Conservation Code" compliance guide containing State maps, prescriptive energy packages and related software published by the United States Department of Energy, Building Standards and Guidelines Program (REScheck™) or "Pennsylvania's Alternative Residential Energy Provisions."

(2) The prescriptive methods for all other buildings or structures contained in the current version of the "International Energy Conservation Code" compliance guide containing State maps, prescriptive packages and related software published by the United States Department of Energy, Building Standards and Guidelines Program (COMcheck™).

[(f)] (e) Construction of individual sewage disposal systems is governed under 25 Pa. Code Chapter 73 (relating to onlot sewage treatment facilities).

[(g)] (f) The repair, alteration, change of occupancy, addition and relocation of existing buildings shall comply with Chapter 34 of the "International Building Code" or with the "International Existing Building Code."

§ 403.25. Manufactured and industrialized housing.

(a) Manufactured housing is governed by the following under section 901(a) of the act (35 P. S. § 7210.901(a)):

(1) Except as provided in paragraph (2), the Uniform Construction Code does not apply to new manufactured housing assembled by and shipped from the manufacturer and which bears a label which certifies that it conforms to Federal construction and safety standards adopted under the Housing and Community Development Act of 1974 (42 U.S.C.A. §§ 5401-5426) and installation of new manufactured housing in conformity with the manufacturer's approved design applicable to the particular home.

(2) Construction activities or processes including utility connections and grading not addressed by the manufacturer's approved design must comply with the Uniform Construction Code. [This chapter and sections AE501-AE503 and AE601-AE605 of Appendix E of the International Residential Code adopted under the Uniform Construction Code apply to the following:

- (i) Site preparation.
- (ii) Foundation construction.
- (iii) Connection to utilities.]

(3) The Uniform Construction Code applies to the following:

(i) Alteration or repair to the unit that does not fall within 24 CFR 3280.1-3280.904 (relating to manufactured home construction and safety standards) and the manufacturer's installation instructions after assembly and shipment by the manufacturer.

(ii) Additions to the unit after delivery to the site.

(iii) Construction, alteration, repair or change of occupancy if the manufactured housing is resold to a subsequent purchaser.

(iv) Construction, alteration, repair or change of occupancy if the original purchaser relocates the manufactured housing.

§ 403.26. Swimming pools.

* * *

(b) A swimming pool that is not accessory to a one- or two-family dwelling shall comply with this chapter, the "American National Standards for Public Pools" issued by ANSI and APSP (ANSI/NSPI-1 [1991] 2003) and the Public Bathing Law (35 P. S. §§ 672—680d).

(c) A hot tub or spa that is not accessory to a one- or two-family dwelling shall comply with this chapter and the "American National Standard for Public Spas" issued by ANSI and APSP (ANSI/NSPI-2 1999).

§ 403.28. Uncertified buildings.

(a) Under section 902(b)(6) of the act (35 P.S. § 7210.902(b)(6)), an uncertified building that was built before April 27, 1927 is deemed to be legally occupied until the owner proposes to renovate, add an addition, alter or change the occupancy of the building. The renovation, addition, alteration or change in occupancy must comply with the Uniform Construction Code.

(b) Under section 902(b) of the act (35 P.S. § 7210.902(b)), uncertified buildings within the Department's jurisdiction shall meet the following requirements which do not apply to uncertified buildings under subsection (a):

(1) Maximum story height, minimum allowable construction type based on floor area, vertical opening and shaft protection requirements, means of egress requirements pertaining to minimum number of exits, maximum travel distances to exits, means of egress illumination, minimum egress widths and heights for exit doors, exit stairs, exit ramps and exit corridors requirements under the "International Building Code".

(2) Fire safety requirements in the "International Building Code" for fire alarms, fire extinguishers, heat and smoke detectors, automatic sprinkler systems and occupancy and incidental use separations. The following also applies:

(i) If construction began on a building before May 19, 1984, the installation of automatic sprinkler systems is not required.

(ii) If construction began on a building after May 19, 1984, automatic sprinklers are only required if the building is classified in use groups E (educational), H (high-hazard), I (institutional), or R-1 or R-2 (residential) or if the building has occupied floors more than 75 feet above lowest level of fire department access. However, buildings in use groups R-1 and R-2 which do not have occupied floors more than 75 feet above lowest level of fire department access may, instead of installing automatic sprinkler systems, install hard-wired interconnected heat and smoke detectors in all rooms or spaces, whether they are occupied or unoccupied.

(iii) If construction of a building began after May 18, 1984, automatic sprinkler installation shall be completed within 5 years of December 22, 2005, or any certificate of occupancy issued shall be invalid.

(3) Accessibility requirements are applicable as follows:

(i) If construction of an uncertified building began before September 1, 1965, no accessibility requirements shall be imposed by the Department.

(ii) If construction of a building began after August 31, 1965 and before February 18, 1989, and if the building is a state-owned building, a restaurant or a retail commercial establishment, the building have at least one accessible main entrance, an accessible route from the accessible entrance to any public spaces on the same level as the accessible entrance and, if toilet rooms are provided, the building shall have at least one toilet room for each sex or a unisex toilet room complying with the accessibility requirements of the "International Building Code."

(iii) If construction of the building began after February 17, 1989, all accessibility requirements of the "International Building Code" shall be met.

(4) Structural requirements shall not be imposed unless the Department determines that the building or a portion of the building has defects that are defined as dangerous in section 202 of the "International Existing Building Code." If the building is dangerous, the Department may impose only those requirements minimally necessary to remove danger to the building's occupants.

(c) All of the following apply to uncertified buildings where the Department does not have jurisdiction and which are not governed under subsection (a):

(1) A construction code official shall issue a certificate of occupancy to an uncertified building if it meets the requirements of the latest version of the "International Existing Building Code" or Chapter 34 of the "International Building Code." The construction code official shall utilize the code for the municipality which best applies, in the official's professional judgment.

(2) A construction code official may deny the issuance of a certificate of occupancy if the official deems that a building is unsafe because of inadequate means of egress, inadequate lighting and ventilation, fire hazards or other dangers to human life or to public welfare.

(3) A municipality governed under this subsection may utilize the standards of subsection (b) for the issuance of certificates of occupancy to uncertified buildings if the municipality adopts an ordinance.

§ 403.45. Inspections.

* * *

(e) A construction code official shall conduct a final inspection of the completed construction work and file a final inspection report, which indicates that all of the following areas met Uniform Construction Code requirements after a final inspection of the completed construction work:

- (1) General building under § 401.7(6) (relating to certification category specification for building inspector).
- (2) Electrical under § 401.7(7).
- (3) Plumbing under § 401.7(9).
- (4) Accessibility under § 401.7(11).
- (5) Fire protection under § [401.7(13)] 401.7(6).
- (6) Mechanical under § 401.7(8).
- (7) Energy conservation under § 401.7(10)

(f) A code administrator may act in place of a lumber grading or inspection agency to satisfy the requirements under section 2303.1.1 of the "International Building Code" or its successor code.

§ 403.46. Certificate of occupancy.

* * *

(e) A building code official may issue a temporary certificate of occupancy for a portion or portions of the building or structure before the completion of the entire work covered by the permit if the portion or portions may be occupied safely. The building code official shall set a time period during which the temporary certificate of occupancy is valid.

§ 403.62. Permit requirements and exemptions.

* * *

(c) A permit is not required for the exceptions listed in § 403.1(b) (relating to scope) and the following, [construction] if the work does not violate a law or ordinance:

(1) [The following building construction, replacement or repairs:

(i)] Fences that are no more than 6 feet high.

(2) [(ii)] Retaining walls that are not over 4 feet in height measured from the lowest level of grade to the top of the wall unless the wall supports a surcharge.

(3) [(iii)] Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1.

(4) [(iv)] Sidewalks and driveways that are 30 inches or less above adjacent grade and not placed over a basement or story below it.

[(v)] Exterior or interior painting, papering, tiling, carpeting, flooring, cabinets, counter tops and similar finishing work.]

(5) [(vi)] Prefabricated swimming pools that are less than 24 inches deep.

(6) [(vii)] Swings and other playground equipment accessory to a one- or two-family dwelling.

(7) [(viii)] Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support.

[(ix)] Replacement of glass in any window or door. The replacement glass shall comply with the minimum requirements of the "International Residential Code."

(x) Installation and replacement of a window, door, garage door, storm window and storm door in the same opening if the dimensions or framing of the original opening are not altered. The installation of means of egress and emergency escape windows may be made in the same opening, without altering the dimensions or framing of the original opening if the required height, width or net clear opening of the previous window or door assembly is not reduced.

(xi) Replacement of existing roof material that does not exceed 25% of the total roof area performed within any 12-month period.

(xii) Replacement of existing siding.

(xiii) Repair or replacement of any part of a porch or stoop which does not structurally support a roof located above the porch or stoop.

(xiv) Installation of additional roll or batt insulation.

(xv) Replacement of exterior rain water gutters and leaders.]

~~(8)~~[(xvi)] Installation of an uncovered deck where the floor of the deck is no more than 30 inches above grade.

[(2) Minor electrical work for the following:

(i) Replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles

(ii) Replacement of a receptacle, switch or lighting fixture rated at 20 amps or less and operating at less than 150 volts to ground with a like or similar item. This does not include replacement of receptacles in locations where ground-fault circuit interrupter protection is required.

(iii) Replacement of installed electrically operated equipment such as doorbells, communication systems and any motor operated device.]

(9) [(iv)] Installation, [alteration] or rearrangement of communications wiring.

[(v) Replacement of dishwashers.

(vi) Replacement of kitchen range hoods.

(vii) Installation of battery-powered smoke detectors.

(3) The following gas work:

(i) Portable heating, cooking or clothes drying appliances.

(ii) Replacement of a minor part that does not alter approval of equipment or make this equipment unsafe.

(iii) A portable fuel cell appliance that is not connected to a fixed piping system and is not interconnected to a power grid.

(4) The following mechanical work or equipment:

(i) A portable heating appliance.

(ii) Portable ventilation appliances.

(iii) A portable cooling unit.

(iv) Steam, hot or chilled water piping within any heating or cooling equipment governed under the Uniform Construction Code.

(v) Replacement of any minor part that does not alter approval of equipment or make the equipment unsafe.

(vi) Self-contained refrigeration systems containing 10 pounds or less of refrigerant or that are put into action by motors 1 horsepower.

(vii) Portable evaporative cooler.

(viii) A portable fuel cell appliance that is not connected to a fixed piping system and is not interconnected to a power grid.

(5) The following plumbing work:

(i) Replacement of bib valves if the replacement hose bib valves are provided with an approved atmospheric vacuum breaker.

(ii) Refinishing of existing fixtures.

(iii) Replacement of ball cocks.

(iv) Repair of leaks.

(v) Clearance of stoppages.

(vi) Replacement of faucets or working parts of faucets.

(vii) Replacement of valves other than shower or combination shower/bath valves.

(viii) Replacement of traps.

(ix) Replacement of a water closet, lavatory or kitchen sink.

(x) Replacement of domestic clothes washers and dishwashers.

(6) The following heating, ventilation and air conditioning work:

(i) Replacement of motors, pumps and fans of the same capacity.

(ii) Repair and replacement of heating, supply and return piping and radiation elements which do not require rearrangement of the piping system.

(iii) Repair and replacement of duct work.

(iv) Repair and replacement of air conditioning equipment and systems.

(v) Repair and replacement of control devices for heating and air conditioning equipment.

(vi) Replacement of kitchen range hoods.

(vii) Replacement of clothes dryers if there is no change in fuel type, location or electrical requirements.

(viii) Replacement of stoves and ovens if there is no change in fuel type, location or electrical characteristics.]

(d) An ordinary repair does not require a permit. The following are not ordinary repairs:

(1) Cutting away a load-bearing wall, partition or portion of a wall.

(2) The removal or cutting of any structural beam or load-bearing support.

(3) The removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements.

(4) The addition to, [alteration of, replacement] or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical.

(e) A permit is not required for the installation, alteration or repair of generation, transmission, distribution, metering or other related equipment that is, by established right, under the ownership and control of a public utility as the term “public utility” is defined in 66 Pa.C.S. § 102 (relating to the definitions).

§ 403.62a. Permit application.

* * *

(e) The application must contain a site plan showing the size and location of the new construction and existing structures on the site and the [structure's] structures' distance from lot lines. If the construction involves demolition, the site plan shall indicate construction that is to be demolished and the size and location of existing structures and construction that will remain on the site or plot. A building code official may waive or modify the site plan requirement when the permit application is for an alteration or a repair or if the waiver is warranted for other reasons.

§ 403.65. Certificate of occupancy.

* * *

(f) A building code official may issue a temporary certificate of occupancy for a portion or portions of the building or structure before the completion of the entire work covered by the permit if the portion or portions may be occupied safely. The building code official shall set a time period during which the temporary certificate of occupancy is valid.

§ 403.102. Municipalities electing to enforce the Uniform Construction Code.

* * *

(i) A municipality may enact an ordinance containing standards that equal or exceed the Uniform Construction Code as adopted by § 403.21 (relating to the Uniform Construction Code) under section 503 of the act (35 P. S. § 7210.503) after Department review and approval. A municipality may enact ordinances under this section which adopt additional code requirements for alterations or repairs to residential buildings. A municipality may enact ordinances under this section which adopt stricter code requirements than required by the act for the regulation of utility and miscellaneous use structures. The municipality shall notify the Department of the proposed ordinance and shall submit all of the following to the Department for its review:

- (1) The complete ordinance.
- (2) The information required in subsection (c).

(3) A detailed statement containing the differences between the proposed ordinance and the Uniform Construction Code and how the ordinance will equal or exceed the Uniform Construction Code.

§ 405.2. Standards.

(a) The following standards are adopted as part of the Uniform Construction Code and apply to the listed type of elevator or other lifting device. Other authorities referenced in the standards are adopted if the authority is not excluded in subsection (b):

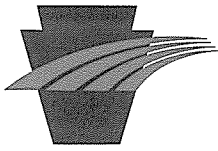
* * *

(4) “ANSI B77.1-[1999] 2006” for passenger ropeways, aerial tramways, aerial lifts, surface lifts, tows and conveyors.

§ 405.11. Accident report.

* * *

(e) An elevator or lifting device involved in a nonfatal accident resulting from mechanical or electrical failure may not return to operation until the Department provides approval. This requirement shall not apply to ski lifts.



DEPARTMENT OF
LABOR & INDUSTRY
COMMONWEALTH OF PENNSYLVANIA

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INDEPENDENT REGULATORY
REVIEW COMMISSION

October 20, 2006

The Honorable Alvin C. Bush, Chairman
Independent Regulatory Review Commission
14th Floor, Harrisstown 2
333 Market Street
Harrisburg, PA 17101

Re: Final-Form Regulation
Department of Labor & Industry
Uniform Construction Code, No. 12-75

Dear Chairman Bush:

Enclosed is a final-form regulation package consisting of a face sheet, preamble, annex and regulatory analysis form prepared by the Department of Labor and Industry. This regulation will amend the Uniform Construction Code to incorporate the new successor building codes issued by International Code Council (ICC) and American National Standards Institute (ANSI). The regulation also incorporates the numerous statutory amendments to the Pennsylvania Construction Code Act. It will amend Chapters 401-405 of 34 Pa. Code, Part XIV.

Section 304 of the Act (35 P.S. § 7210.304) requires Labor and Industry to promulgate regulations adopting these new codes as the Uniform Construction Code by December 31. The following acts made numerous statutory changes which are also reflected in this regulation: Act 43 of 2001; Acts 13, 92 and 230 of 2004; Act 95 of 2005; and, Act 108 of 2006. This amendment also reflects changes made to section 613-A of the Administrative Code of 1929 by Act 47 of 2003.

Comments, suggestions or questions should be directed to Edward Leister, Assistant Director, Bureau of Occupational and Industrial Safety, Labor and Industry Building, 16th floor, Harrisburg, PA 17120. Telephone 717-783-6304; Fax: 717-787-8363; E-mail: eleister@state.pa.us.

The Honorable Alvin C. Bush, Chairman
Re: Uniform Construction Code, No. 12-75
Page 2

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

Sincerely,

A handwritten signature in cursive script that reads "Stephen M. Schmerin". The signature is written in black ink and is positioned above the printed name.

Stephen M. Schmerin

SMS/

Enclosures

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

I.D. NUMBER: 12-75

SUBJECT: TRAINING AND CERTIFICATION REQUIREMENTS FOR CODE ADMINISTRATORS - ELEVATORS AND OTHER LIFTING DEVICES

AGENCY: DEPARTMENT OF LABOR & INDUSTRY

TYPE OF REGULATION

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

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 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10/20/06	<i>M. Eckhart</i>	HOUSE COMMITTEE ON LABOR RELATIONS
10/20/06	<i>B. Dysand</i>	
10/20/06	<i>Emilio Restagno</i>	SENATE COMMITTEE ON LABOR & INDUSTRY
10/20/06	<i>Ken Burke</i>	
10/20/06	<i>KM Shogan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

20 OCT '06
 Legal Review Section