

DEPARTMENT OF
LABOR & INDUSTRY
COMMONWEALTH OF PENNSYLVANIA

BUREAU OF OCCUPATIONAL AND INDUSTRIAL SAFETY
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November 22, 2006

The Honorable Alvin C. Bush, Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101
Attn: James M. Smith, Regulatory Analyst

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Re: **Regulation No. 12-75 (IRRC # 2580)**

Response to Comments by the Pennsylvania Builders Association

Dear Chairman Bush:

This letter is in response to the comments made by Bradford Elliott, President, Pennsylvania's Builders Association (PBA) concerning the Department of Labor and Industry's (L&I) Final-Omitted Regulation, No.12-75, pertaining to training and certification requirements for code administration; elevators and other lifting devices. PBA made two comments.

In its first comment, PBA expressed concern that Section 7210.301 (a)(6) of Act 45 requires the inclusion of the provisions of the 1992 CABO Section R-213 and exception 8 to section 1014.6 (relative to stairway treads and risers) of the 1993 BOCA National Building Code. PBA states that L&I incorporated the provisions of the 1992 CABO Section R-213 into 34 Pa.Code § 403.21(a)(6)(ii) but failed to incorporate exception 8 to section 1014.6 (relative to stairway treads and risers) of the 1993 BOCA National Building Code into 34 Pa. Code § 403.21(a)(1).

The language in the final-omitted regulation pertaining to the residential stairway tread and riser requirements does not include all the changes effected by Act 13 of 2004. L&I interpreted comments and believed that Act 45, reflected an intent to preserve the "old" stairway requirements for one- and two-family dwellings contained in the earlier building code, the BOCA 1993 National Building Code. For that reason, L&I did not closely examine "exception 8" language found in the BOCA 1993 National Building Code while promulgating this regulation.

This regulation does not jeopardize compliance with the correct requirements. The statutory "8 1/4" x "9" ("exception 8") requirements for stairways in certain R-2 and R-3 use and occupancy classifications must still be complied with even though this

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regulation does not address this situation. L&I will specifically address this situation, when it submits the next regulatory changes in 2007.

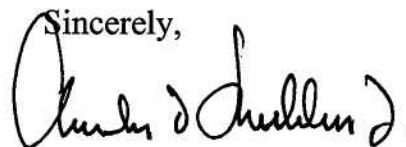
L&I cannot make this change now without severely jeopardizing the timely adoption and use of the updated 2006 I-codes required by statute. Further, as soon as the current regulatory changes are approved, L&I will acknowledge this on the UCC website and inform all readers as to the correct stairway requirements for certain R-2 and R-3 occupancies contained in Act. These stairway requirements have been in effect since February 19, 2004.

L&I plans to contact PBA before the November 30, 2006 public hearing on this regulation to assure them that we will correct the oversight and publicize the correction on our website before the final form regulation takes effect.

In its second comment, PBA stated that 403.21 (d) [now 403.21(e)] is misleading. PBA states that when reading this section one could assume these are the only prescriptive compliance paths to achieving energy compliance for detached residential buildings. PBA states that the requirements of Chapter 11 of the IRC need to be added as an additional approved path to meet energy compliance.

L&I did not make any change to 403.21(e) other than to renumber it. L&I does not disagree that this change should be made to the regulation. However, this constitutes a substantive and discretionary change that L&I cannot make in a final-form , proposed rulemaking omitted regulation. L&I will take this comment under advisement when drafting its 2007 UCC amendments which will be promulgated as a proposed regulation subject to stakeholder review and public comment.

I trust this responds to the PBA comments.

Sincerely,


Charles J. Sludden, Jr.
Director

- c: The Honorable John R. Gordner, Chairman, Senate Labor & Industry Committee
- The Honorable Christine M. Tartaglione, Democratic Chairman, Senate Labor & Industry Committee
- The Honorable Robert L. Allen, Chairman, House Labor Relations Committee
- The Honorable Robert E. Belfanti, Jr., Democratic Chairman, House Labor Relations Committee
- The Honorable Stephen M. Schmerin, Secretary

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