

**PENNSYLVANIA ASSOCIATION OF  
BUILDING CODE OFFICIALS**

*"Helping to Build a Safer Pennsylvania"*

www.paofficials.com

5329 Route 219  
Brockport, PA 15823  
814-330-6444  
[execofficer@paofficials.com](mailto:execofficer@paofficials.com)

2937

2012 MAY -7 AM 11: 46

RECEIVED  
IRRC

May 5, 2012

Mr. Edward Leister, Director  
Bureau of Industrial and Occupational Safety  
Pennsylvania Department of Labor and Industry  
16<sup>th</sup> Floor  
651 Boas Street  
Harrisburg, PA 17121

Dear Mr. Leister: Reference regulation #12-94 (IRRC #2937)

The following comments and recommendations are being made on behalf of the Pennsylvania Association of Building Code Officials, Inc., representing approximately 1100 members throughout the Commonwealth of Pennsylvania:

It is clear and evident that Act 1 of 2011 requires the Department to promulgate regulations adopting Chapter 11 and Appendix E of the 2012 International Building Code no later than December 31, 2012.

It is equally evident that Act 1 of 2011 does NOT provide the Department with direction to adopt the ICC A117.1-2009 standard or any other accessibility requirement/provision found in the International Building Code of 2012.

It is our belief that the shortcomings in the language in Act 1, in terms of not referencing ICC A117.1-2009 or all other accessibility provisions would not have been an issue if the UCC Review and Advisory Council had adopted the 2012 IBC in its entirety. All other accessibility provisions would have been adopted as a result of the entire IBC being adopted, regardless of the deficient language in Act 1 regarding accessibility provisions. Unfortunately, the decision of the RAC to not adopt the 2012 IBC has left a substantial void in creating a clear understanding of which accessibility provisions ARE BEING ADOPTED by regulation and which, if any, are NOT BEING ADOPTED by regulation.

The Department's proposed regulation includes the 2009 ICC A117.1 standard. While we agree wholeheartedly that it needs to be adopted, we do not see where Act 1 gives that authority to the Department. Act 1 limits itself to Chapter 11 and Appendix E.

If the Department's rationale is that the ICC A117.1-2009 standard is referenced in Chapter 11 and Appendix E, then why are not ALL references in Chapter 11 being captured in the proposed regulation? Most notable would be Chapter 34 as it relates to accessibility provisions for existing buildings.

Of even greater concern are all of the "mainstreamed" accessibility provisions, principally found in Chapter 10 of the IBC, but some being found in Chapter 9 as well. These are not specifically referenced in Chapter 11 or Appendix E and yet the mainstreamed provisions form the very basis and foundation for accessibility plan review, inspection and compliance in the IBC.

The UCC RAC enabling legislation gave the Department the authority and obligation to adopt "any other accessibility requirements contained in or referenced by the UCC." Unfortunately, Act 1 failed

Mr. Edward Leister  
May 5, 2012  
Page 2

to echo this language.

It is our position and recommendation that the Department do anything and everything within its power and scope of authority to adopt ALL accessibility provisions in the 2012 I-codes, including Chapter 11, Appendix E, ICC A1171.1-2009, Chapter 34, Specific references contained in Chapter 11 and all mainstreamed provisions in the IBC. The accessibility provisions in the 2012 International Existing Building Code also needs to be adopted assuming that the 2012 Chapter 34 is adopted.

It is strongly recommended and requested that the Department, by regulation, contain a listing of all chapters, sections and sub-sections in the 2012 IBC (and IEBC) that pertain to accessibility provisions, including those that are mainstreamed in the IBC.

PABCO believes that it would be disastrous for proper and consistent code enforcement in Pennsylvania if some accessibility provisions from 2012 IBC were adopted but other accessibility provisions, including mainstreamed ones, were to be based on the 2009 IBC. This would create massive confusion and would set back the progress that has been made with accessibility compliance over the last 8 years, helped in large measure by the Department's accessibility audit program.

If it becomes inevitable in the Department's final analysis that accessibility will be based in part on 2012 requirements and part on 2009 requirements, a detailed listing in the regulation, specifying which code edition must be used for each accessibility provision would become absolutely critical, especially for mainstreamed provisions and Chapter 34.

Such a detailed listing will be integral to the forward success of the Department's accessibility audit program. If there is eventually a mix of 2009 and 2012 accessibility provisions, the Department would undoubtedly become obligated to communicate that information to all opt-in jurisdictions, in order that they might properly administer and enforce the UCC for accessibility AND that they would be fully informed of which provisions the Department will be using for its audit program.

Should it become necessary to sort this out with a legislative amendment to Act 1, to give the Department the authority to promulgate regulations adopting ALL accessibility provisions, and not just those narrowly limiting in Act 1, PABCO would be ready and willing to proactively support such a legislative fix.

PABCO is not finding any fault with how the Department is approaching the current dilemma; in fact, we have sympathy for the position it finds itself in, through no fault of its own. The combination of poor language in Act 1 and the decision of the RAC to not adopt the IBC have created this dust storm. If there is anything that we can do to assist the Department in arriving at a lawful and common-sense approach to this regulation, we stand ready to do so.

Thank you for your kind consideration and I look forward to your reply.

Please contact our Executive Officer, Bob Buddenbohn, with any questions or concerns. He may be contacted at 814-330-6444 or [execofficer@paofficials.com](mailto:execofficer@paofficials.com)

Sincerely,

Robert J. Heil, President  
Pennsylvania Association of Building Code Officials, Inc.

Cc: Kelly Smith, Assistant Chief Counsel  
Michelle Elliott, Regulatory Analyst, IRRC