

Regulatory Analysis Form

(Completed by Promulgating Agency)

(All Comments submitted on this regulation will appear on IRRC's website)

**INDEPENDENT REGULATORY
REVIEW COMMISSION**



(1) Agency

Department of Labor & Industry

(2) Agency Number: 012

Identification Number: 108

IRRC Number: 3232

(3) PA Code Cite: 34 Pa. Code, Part XIV, Chapters 401, 403, and 405

(4) Short Title: Uniform Construction Code

(5) Agency Contacts (List Telephone Number and Email Address):

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(6) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation

- Emergency Certification Regulation;
- Certification by the Governor
- Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

These regulations update the Uniform Construction Code (UCC) by adopting Chapter 11 and Appendix E of the International Building Code of 2018 (IBC), issued by the International Code Council (ICC). In addition, the regulations adopt the accessibility provisions found in the International Plumbing Code of 2018 (IPC), the International Existing Building Code of 2018 (IEBC) and the International Swimming Pool and Spa Code (ISPSC). Section 304(a)(3), 35 P.S. § 7210.304(a)(3), of the Pennsylvania Construction Code Act (PCCA) requires the Department to adopt, in the year of its issuance, the accessibility provisions of the most recently published edition of the ICC codes and any other accessibility requirements which shall be specified in the regulations, or contained in or referenced by the Uniform Construction Code relating to persons with disabilities.

Section 302 of the PCCA, 35 P.S. § 302(a)(2), also requires the Department to adopt the latest revisions published by the American National Standards Institute (ANSI) of the *American National Standards for Passenger Tramways, Aerial Tramways, Aerial Lifts, Surface Lifts and Tows*, ANSI B77.1. The latest ANSI B77.1 is the ANSI B77.1-2017, *American National Standards for Passenger Tramways, Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Standard*.

(8) State the statutory authority for the regulation. Include specific statutory citation.

This final-omitted rulemaking is promulgated under the authority provided in Section 304(a)(3) of the Act, 35 P.S. § 7210.304, which requires the Department to adopt, in the year of its issuance, the accessibility provisions of the most recently published edition of the ICC codes and any other accessibility requirements which shall be specified in the regulations, or contained in or referenced by the Uniform Construction Code relating to persons with disabilities.

Moreover, the Department is required to adopt the latest ANSI standards applicable to the operation of ski lifts. 35 P.S. § 302(a)(2).

The final-omitted procedure is appropriate under the Commonwealth Documents Law because the full regulatory process is impracticable since the Department is required by law to adopt both the updated accessibility provisions of the ICC codes and the latest ANSI standards for ski lifts without change. 45 P.S. § 1204(a)(3).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Yes. Section 304(a)(3) of the PCCA, 35 P.S. §7210.304(a)(3), directs the Department to promulgate regulations updating accessibility standards under Chapter 3 of the Act, which requires the Department to adopt, in the year of its issuance, the accessibility provisions of the most recently published edition of the ICC codes and any other accessibility requirements which shall be specified in the regulations, or contained in or referenced by the Uniform Construction Code relating to persons with disabilities.

Section 302(a)(2) of the Act, 35 P.S. §7210.302(a)(2), also requires the inclusion of the latest ANSI standards applicable to the operation of ski lifts, which is ANSI B77.1-2017.

These regulations will be effective upon publication in the *Pennsylvania Bulletin*.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The updates made by these regulations are mandated by the PCCA. Section 304(a)(3) of the PCCA, 35 P.S. §7210.304(a)(3), directs the Department, to adopt, in the year of its issuance, the accessibility provisions of the most recently published edition of the ICC codes and any other accessibility requirements which shall be specified in the regulations, or contained in or referenced by the Uniform Construction Code relating to persons with disabilities.

The accessibility regulations will allow individuals with disabilities to fully access commercial buildings and use all the features found therein. The Department does not have statistics about how many people will benefit from the updated regulations.

Section 302(a)(1), (2) of the Act, 35 P.S. §7210.302(a)(1), requires the inclusion of the latest ANSI standards applicable to the operation of ski lifts, which is ANSI B77.1-2017. The adoption of the current

ANSI B77.1 provides a system of principles, specifications, and performance criteria that will reflect the current state of the art in design, operation and maintenance of aerial passenger ropeways, surface lifts, tows and conveyors typically found within the ski industry.

(11) 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 regulations.

There are no provisions that are more stringent than federal standards. There are no federal laws that adopt building code standards. The federal Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101-12213, mandates that certain buildings and facilities comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG). The proposed regulations adopt Chapter 11 of the IBC 2018, which adopts by reference ICC/ANSI A117.1. The ICC/ANSI A117.1 standards are consistent with the federal ADAAG accessibility standards.

There are no federal standards for the operation of ski lifts.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

All 50 states and the District of Columbia have adopted versions of ICC's codes, and many states have adopted a version of ANSI B77.1 for the operation of ski lifts. These regulations will update Pennsylvania's accessibility standards to the IBC 2018 edition of Chapter 11 and Appendix E for new construction and IEBC 2018 for existing buildings. The regulations will also adopt the latest ANSI standards applicable to the operation of ski lifts, ANSI B77.1.

The Department does not anticipate that this regulation would affect Pennsylvania's ability to compete with other states as the other states are adopting versions of the same codes into their regulations.

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

This regulation changes the UCC by adopting accessibility updates to the ICC codes and by updating the requirements for passenger tramways, aerial tramways, aerial lifts, surface lifts, tows and conveyors. The Department does not anticipate that this regulation will affect any other regulations.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Department sought input from the Accessibility Advisory Board, created under section 106 of the PCCA, 35 P.S. § 7210.106. The Accessibility Advisory Board consists of members appointed by the Secretary, including members with physical disabilities, an architect, a member of the business community, a representative of the multifamily housing industry, and a municipal official. Pursuant to Section 106(b) of the PCCA, 35 P.S. § 7210.106(b), the Accessibility Advisory Board reviewed the proposed regulation. On September 20, 2018, the Accessibility Advisory Board voted to endorse the changes to the UCC.

The Department has also discussed the adoption of accessibility provisions for existing buildings with the Pennsylvania Builders Association and the Pennsylvania Building Code Officials organizations and both entities have expressed support of adopting the accessibility provisions of IBC 2018 for new construction and the accessibility provisions contained in the IEBC 2018 for existing buildings.

The Department has discussed the adoption of the ANSI B77.1-2017 with members of the Pennsylvania Ski Area Association at their annual seminars where they expressed their support of the adoption of the most current edition.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Local governments and third-party inspection agencies enforcing the UCC and the Department are affected in that they will need to absorb the cost of updating their code materials and their code enforcement staff may require training on the changes.

The Department maintains sole jurisdiction of the enforcement of ANSI B77.1 relating to passenger tramways, aerial tramways, aerial lifts, surface lifts, tows and conveyors and has absorbed the costs of updating the code materials and training of the inspection staff.

The Department does not possess data on the numbers of people, businesses and small businesses that will be affected by this regulation. Local governments and third-party inspection agencies enforcing the UCC and the Department are affected in that they will need to absorb the cost of updating their code materials and their code enforcement staff may require training on the changes.

Ski lift operators, ski lift designers and ski lift manufacturers will also absorb some costs to comply with the updated standards. The Department does not possess specific data on any increase of costs to builders or contractors.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Building and facility contractors, design professionals, building and facility owners, developers, local municipalities, construction code officials, third-party inspection agencies, ski lift operators, ski lift designers, ski lift manufacturers, and the Department are affected as they are required to meet the new standards mandated by these adopted code updates. The Department has the sole responsibility for inspecting ski lifts.

The Department does not collect data on the number of people, groups and entities that will be required to comply with this regulation. Building and facility contractors, design professionals, manufactured housing and modular building manufacturers, building and facility owners, developers, local municipalities, construction code officials, third party inspection agencies and the Department must comply with this regulation.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The regulated community will be financially impacted by the cost of compliance with updated building codes; however, the PCCA requires the Department to update the accessibility regulations and prescribes the standards that the Department must adopt. 35 P.S. § 7210.304(a)(3); 35 P.S. §7210.302(a)(2). The benefits of adopting these regulations include providing the most recent widely-recognized standards for ensuring Pennsylvania's buildings and structures are accessible and usable by people with disabilities, while protecting the life, health, and property for the Commonwealth's citizens. These regulations will also assure that the latest state-of-the-art technical methods, devices, and improvements are used for the safe operation of ski lifts in Pennsylvania.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The PCCA requires the Department to promulgate this regulation and does not permit the Department to undertake a cost-benefit analysis. This regulation provides for updated building codes, which will improve the accessibility and safety of buildings constructed or altered in the Commonwealth, providing inherent benefits to citizens of the Commonwealth.

The regulation also provides for updated standards for passenger tramways, aerial tramways, aerial lifts, surface lifts, tows and conveyors which will improve the safety of individuals who ski, snowboard, or ride these devices in Pennsylvania.

(19) 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. Explain how the dollar estimates were derived.

The regulated community is required to absorb the cost of compliance with the new or altered standards mandated by these regulations. It is impossible to estimate the cost of compliance since the number of projects and the design of each individual project is unknown.

Third-party agencies that perform UCC inspection may incur costs associated with updating their code materials. However, these agencies may have already purchased some of the 2018 ICC code books to comply with the recently updated UCC regulations that adopted some portions of the 2018 ICC codes, specifically those related to the accessibility requirements in the IBC, IEBC, IPC, ISPSC and the ANSI A117.1 Standard on Accessibility and Usable Buildings and Facilities.

Third-party agencies may have to purchase ANSI A117.1.

Ski lift operators, ski lift designers, ski lift manufacturers, and the Department will have to purchase the updated ANSI book.

These agencies may also experience some costs to train employees on the new codes.

The total cost to purchase a complete set of the 2018 ICC code materials is \$750.00 per set.
The cost to purchase individual code materials is as follows: IBC-\$110.00, IEBC-\$60.00, IPC-\$69.00 and ISPSC-\$63.00.

The total cost to purchase ANSI A117.1 is \$46.00.
The total cost to purchase ANSI B77.1-2017 is \$200.00

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Local municipalities that have opted to enforce the UCC may incur costs associated with updating their code materials. However, local municipalities may have already purchased some of the 2018 ICC code books to comply with the current regulations that adopted some portions of the 2018 ICC codes, specifically those related to the accessibility requirements in the ICC Building Code, ICC Existing Building Code, and the ANSI A117.1 Standard on Accessibility and Usable Buildings and Facilities.

The total cost to purchase a complete set of the 2018 ICC code materials is \$750.00 per set.
The cost to purchase individual code materials is as follows: IBC \$110.00, IEBC \$60.00, IPC \$69.00, ISPSC \$63.00.

The total cost to purchase ANSI A117.1 is \$46.00.
The total cost to purchase ANSI B77.1-2017 is \$200.00

Municipalities may need to purchase multiple copies of the code books depending on the number of employees assigned to its building code program. Municipalities that contract with third-party inspection agencies may incur no additional expense. Municipalities may also incur costs of any necessary training required by its code officials concerning the new standards.

Municipalities may also experience some costs to train employees on the new codes.

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

The Department is already incurring costs to comply with the regulations that updated other sections of the current code. Accordingly, the only additional costs incurred will be the purchasing of ANSI B77.1-2017.

The enforcement costs will be similar to the costs incurred by the current UCC enforcement program. The Department's SFY 17-18 cost for the UCC enforcement program is approximately \$6,283,850.

The Department will incur an approximate cost of \$5,200 to purchase 26 copies of ANSI B77.1-2017.

The Department will incur costs for staff training concerning the new standards adopted through this regulation, at approximately \$800 per individual, for a total of \$40,000.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

This proposed regulation will not add to nor significantly change the existing reporting, record keeping, or other paperwork requirements. Current forms will be updated following enactment of the regulation. The PCCA requires the Department to update these regulations. 35 P.S. §7210.304(a)(3), 35 P.S. §7210.302(a)(2).

(22a) Are forms required for implementation of the regulation?

Yes.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

Accessibility Advisory Board Petition – <http://www.dli.pa.gov/Individuals/Labor-Management-Relations/bois/Documents/UCC/ucc-1a.pdf>

Application for Building Permit – <http://www.dli.pa.gov/Individuals/Labor-Management-Relations/bois/Documents/UCC/ucc-1a.pdf>

Special Inspections and Observation Statement – <http://www.dli.pa.gov/Individuals/Labor-Management-Relations/bois/Documents/UCC/ucc-6.pdf>

(23) In the table below, provide an estimate of the fiscal savings and costs 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	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
Local Government	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
State Government	0	0	0	0	0	0
Total Savings	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
COSTS:						
Regulated Community	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
Local Government	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
State Government	40,000	40,000	40,000	40,000	40,000	40,000
Total Costs	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
REVENUE LOSSES:						
Regulated Community	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
Local Government	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown
State Government	0	0	0	0	0	0
Total Revenue Losses	Unknown	Unknown	Unknown	Unknown	Unknown	Unknown

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
UCC Enforcement	\$5,414,200	\$5,414,000	\$6,490,200	\$6,283,850

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

There are approximately 200 small businesses certified with the Department as third-party agencies. These businesses are comprised of inspection agencies and engineer and architecture firms. The anticipated costs for these businesses is approximately \$965 for each UCC-certified employee. These costs are for the purchase of the 2018 ICC code books (\$750/set). There may also be costs associated with training UCC-certified staff. However, that will vary depending on the avenue the third-party agency pursues to provide training if it chooses to do so. The most cost-efficient method would be for the agency to permit the UCC-certified individuals to self-train or to provide training in-house.

A regulatory flexibility analysis was not conducted by the Department. The PCCA requires the Department to update these regulations without regard to potential impacts on small businesses. 35 P.S. §7210.304(a)(3), 35 P.S. §7210.302(a)(2).

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

No special provisions have been developed. The PCCA requires the Department to update these regulations and the Department is without discretion to modify them. 35 P.S. §7210.304(a)(3), 35 P.S. §7210.302(a)(2).

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternatives may be considered. The PCCA requires the Department to update these regulations and the Department is without discretion to modify them. 35 P.S. §7210.304(a)(3), 35 P.S. §7210.302(a)(2).

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

There is no flexibility with these regulations. The PCCA requires the Department to update these regulations and the Department is without discretion to modify them. 35 P.S. §7210.304(a)(3), 35 P.S. §7210.302(a)(2). As such, the Department did not conduct a regulatory flexibility analysis.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

The regulation was not based on the collection of data.

(29) Include a schedule for review of the regulation including:

- | | |
|---|---|
| A. The length of the public comment period: | <u>N/A</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>September 20, 2018</u> |
| C. The expected date of delivery of the final-form regulation: | <u>February 13, 2019</u> |
| D. The expected effective date of the final-form regulation: | Upon publication of the final form rulemaking in the <i>Pennsylvania Bulletin</i> |
| E. The expected date by which compliance with the final-form regulation will be required: | Upon publication of the final form rulemaking in the <i>Pennsylvania Bulletin</i> |

F. The expected date by which required permits, licenses or other approvals must be obtained:

Upon publication of the final form rulemaking in the *Pennsylvania Bulletin*

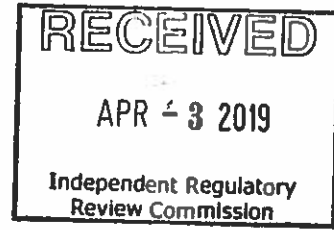
(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The PCCA requires the Department to update these regulations and the Department is without discretion to modify them. 35 P.S. §7210.304(a)(3), 35 P.S. §7210.302(a)(2). However, the ICC codes are updated every three years. Presumably, these codes will update the accessibility requirements and the Department will accordingly update its regulations by December 31, 2021.

The Department does not know when the next ANSI update will be published but will update the regulations at that time.

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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>Department of Labor and Industry</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>12-108</u></p> <p>DATE OF ADOPTION:</p> <p>BY: <u>W. Gerard Oleksiak</u> W. Gerard Oleksiak 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>B. E. Conroy-Muniz</u></p> <p><u>MAR 27 2019</u> DATE OF APPROVAL Deputy General Counsel (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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NOTICE OF FINAL-OMITTED RULEMAKING

TITLE 34. LABOR AND INDUSTRY

PART XIV. UNIFORM CONSTRUCTION CODE

CHAPTER 401. UNIFORM CONSTRUCTION CODE TRAINING AND CERTIFICATION OF CODE ADMINISTRATORS

CHAPTER 403. ADMINISTRATION

CHAPTER 405. ELEVATORS AND OTHER LIFTING DEVICES

FINAL-OMITTED RULEMAKING

Title 34 Labor and Industry
Part XIV. Uniform Construction Code
Chapters 401, 403 and 405
[34 Pa. Code, Part XIV, Chapters 401, 403 and 405]

In accordance with sections 302 and 304 of the “Pennsylvania Construction Code Act,” the act of November 10, 1999, (P.L. 491, N. 45) (PCCA), *as amended*, 35 P.S. §§ 7210.101 - 7210.1103, the Department of Labor and Industry (Department) amends Chapter 401 (relating to Uniform Construction Code (UCC) training and certification of code administrators), Chapter 403 (relating to administration) and Chapter 405 (relating to elevators and other lifting devices) to read as set forth in Annex A.

Statutory Authority

This final-omitted rulemaking is issued under the authority provided in sections 302(a)(2), 35 P.S. § 302(a)(2), and 304(a)(3), 35 P.S. § 7210.304(a)(3), of the PCCA. Section 304(a)(3) provides that, by December 31 of the year of issuance, the Department shall adopt regulations updating the accessibility provisions of the most recently published edition of the International Code Council (ICC) codes and any other accessibility requirements which shall be specified in the regulations, or contained in or referenced by the UCC relating to persons with disabilities. In addition, section 302(a)(2) of the PCCA requires the latest standards for the operation of ski lifts prescribed by the American National Standards Institute (ANSI) be included in Chapter 35 of the UCC.

Background

The PCCA mandates a process for the adoption of updated building codes issued by the ICC. Although most building code provisions are reviewed by the Pennsylvania Uniform Construction Code Review and Advisory Council under the procedure outlined in Section 108 of the PCCA, 35 P.S. § 7210.108, the PCCA specifically excludes the accessibility provisions of the ICC codes from this review. 35 P.S. § 7210.107(b)(3). Instead, Section 304(a)(3) of the PCCA requires the Department to adopt, by December 31 of the year of issuance by the ICC, the ICC’s updated accessibility standards for the construction, repair or alteration of buildings in the Commonwealth. In 2018, the ICC issued codes containing updated accessibility standards. Adoption of the current accessibility standards will ensure that commercial buildings meet current standards for accessible and usable facilities. These regulations will be effective upon publication in the *Pennsylvania Bulletin*.

The purpose of these regulations is to adopt recognized international standards for accessible and usable buildings and structures, as directed by the PCCA. The current accessibility regulations implemented the accessibility standards found in the 2015 ICC codes. This regulation implements current state of the art accessibility standards and conforms to standards issued by the United States Department of Justice under the Americans with Disabilities Act (42 U.S.C.

§§12101-12213). Adopting Chapter 11 and Appendix E of the 2018 International Building Code (IBC) for new construction along with the accessibility provisions contained in the 2018 International Existing Building Code (IEBC), the 2018 International Plumbing Code (IPC) and the 2018 International Swimming Pool and Spa Code (ISPSC) will allow the Department to comply with the directive of the PCCA to update accessibility requirements in the Uniform Construction Code (UCC) with successor codes.

In addition, Section 304(a)(2) of the PCCA, 35 P.S. § 7210.304(a)(2), requires the Department to include the latest ANSI standards applicable to the operation of ski lifts prescribed in the American National Standards for Passenger Tramways, Aerial Tramways, Aerial Lifts, Surface Lifts and Tows, ANSI B77.1. The current regulation recognizes ANSI B77.1-2011 and supplement ANSI B77.1a-2012. However, the latest ANSI B77.1 standards are contained in ANSI B77.1-2017. Accordingly, the Department must adopt ANSI B77.1-2017 to bring Pennsylvania's standards for the operation of ski lifts into compliance with the current state-of-the-art and recognized standards, as mandated by the PCCA.

Compliance with Executive Order 1996-1, Regulatory Review and Promulgation

On September 20, 2018, the Accessibility Advisory Board (Board) held a public hearing to review and consider the updates to the accessibility provisions of the ICC codes. This is required by Section 106(b) of the PCCA, 35 P.S. § 106(b). The Board voted to endorse the accessibility updates found in the ICC codes. The Department has discussed the adoption of accessibility provisions for buildings with the Pennsylvania Builders Association and the Pennsylvania Association of Building Code Officials and both entities have expressed support for adoption of the accessibility provisions contained in the 2018 IBC for new construction and the accessibility provisions contained in the 2018 IEBC for existing buildings.

On April 25 and June 13, 2018, the Department held discussions with members of the Pennsylvania Ski Area Association at their annual seminars where they expressed their support of the adoption of the ANSI B77.1-2017 edition.

Purpose

The purpose of this final-omitted rulemaking is to amend 34 Pa. Code §§ 401.1, 403.21, 403.26, 403.28 and 405.2 to adopt the ICC accessibility updates and the ANSI updates for ski lifts.

Summary of Proposed Rulemaking

34 Pa. Code § 401.1. Definitions.

This section changes the definitions for the IBC and the IEBC to state that they include the accessibility provisions of the 2018 IBC and the 2018 IEBC. This was done because the ICC updated the accessibility provisions of the IBC and IEBC.

34 Pa. Code § 403.21. Uniform Construction Code.

The Department is amending subparagraph (a)(2) to replace the accessibility provisions found in Chapter 11 of the 2015 IBC with the updated accessibility provisions of Chapter 11 of the 2018 IBC. This is being done to implement the latest accessibility standards.

The Department is amending subparagraph (a)(7)(i) to make it more readable. In addition, the Department is adding new subparagraph (a)(7)(iii) to add accessibility provisions specifically designated by the ICC in the 2018 IPC. This is being done to implement the latest accessibility standards.

The Department is adding new subparagraph (a)(10)(i) to add accessibility provisions specifically designated by the ICC in the 2018 IEBC. This is being done to implement the latest accessibility standards.

The Department is amending subparagraph (a)(12) to replace the accessibility provisions found in Appendix E of the 2015 IBC with the updated accessibility provisions of Appendix E of the 2018 IBC. This is being done to implement the latest accessibility standards.

34 Pa. Code § 403.26. Swimming pools.

The Department is amending paragraph (b) to add accessibility provisions specifically designated by the ICC in the 2018 ISPSC. This is being done to implement the latest accessibility standards.

34 Pa. Code § 403.28. Uncertified buildings.

The Department is amending subparagraphs (b)(3)(ii) and (b)(3)(iii) to replace the accessibility provisions found in the 2015 IBC with the updated accessibility provisions of the 2018 IBC. This is being done to implement the latest accessibility standards.

34 Pa. Code § 405.2. Standards.

The Department is amending subparagraph (a)(4) to replace the ski lift standards found in ANSI B77.1 2011 and supplement ANSI B77.1a-2012 with the updated standards found in ANSI B77.1 2017. This is being done to implement the latest standards for ski lifts.

Affected Persons

This regulation will affect all builders and contractors in the construction industry and all building code officials who enforce the regulations. It will also affect all ski lift operators, ski lift designers and ski lift manufacturers.

Fiscal Impact

To enforce these regulations, the Department and building code officials will need to purchase the 2018 IBC, IEBC and IPC. Ski lift operators, designers and manufacturers will have to purchase ANSI B77.1 2017.

Builders and contractors will have to absorb some costs to comply with the updated standards. The Department does not possess specific data on any increase of costs to builders or contractors.

Ski lift operators, ski lift designers and ski lift manufacturers will also absorb some costs to comply with the updated standards. The Department does not possess specific data on any increase of costs to builders or contractors.

Reporting, Recordkeeping and Paperwork Requirements

This Department will have to update the following forms: Accessibility Advisory Board Petition, Application for Building Permit, and Special Inspections and Observation Statement. There are no additional reporting, record keeping or paperwork requirements.

Sunset Date

There is no sunset date for these regulations. The PCCA requires accessibility standards to be updated every three years following publication of the triennial revisions to the ICC codes. In addition, the Department is required to have the latest standards for ski lifts as part of their elevator regulations.

Effective Date

This final-omitted regulation will take effect upon publication in the *Pennsylvania Bulletin*.

Contact Person

The contact person is Matthew W. Kegg, Director, Bureau of Occupational and Industrial Safety, Department of Labor & Industry, 651 Boas Street, Room 1613, Harrisburg, Pennsylvania, 17121, (717) 783-6304; mkegg@pa.gov.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act, 71 P.S. § 745.5a(c), on 4/3, 2019, the Department submitted a copy of this final-omitted rulemaking to the Chairpersons of the Senate Committee on Labor and Industry and the House Committee on Labor and Industry and to the Independent Regulatory Review Commission (IRRC). In addition to submitting the final-omitted rulemaking, the Department has provided the Committees and IRRC with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

Under section 5.1(j.2) of the Regulatory Review Act, these final-omitted regulations were deemed approved by the Committees on _____. IRRC met on _____ and approved the regulations in accordance with section 5.1(e) of the Regulatory Review Act.

Findings

Annex A

TITLE 34. LABOR AND INDUSTRY
PART XIV. UNIFORM CONSTRUCTION CODE
CHAPTER 401. UNIFORM CONSTRUCTION CODE TRAINING AND CERTIFICATION
OF CODE ADMINISTRATORS

§ 401.1. Definitions.

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

* * * * *

International Accreditation Service, Inc. – The International Accreditation Service, Inc., 5360 Workman Mill Road, Whittier, California 90601.

International Building Code –An International Building Code issued by the ICC. Chapter 11 and Appendix E of the “International Building Code [2015] 2018” issued by the ICC. The term includes all errata issued by the ICC.

International Energy Conservation Code –An International Energy Conservation Code issued by the ICC. The term includes all errata issued by the ICC.

International Existing Building Code –An International Existing Building Code for Buildings and Facilities issued by the ICC. The accessibility provisions in the “International Existing Building Code for Buildings [2015] 2018” issued by the ICC. The term includes all errata issued by the ICC.

International Fire Code – An International Fire Code issued by the ICC. The term includes all errata issued by the ICC.

* * * * *

CHAPTER 403. ADMINISTRATION

§ 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—10, 12—29 and 31—35 of the “International Building Code of 2015,” except:
 - (i) In occupancies in Use Group R-3 and within dwelling units in occupancies in Use Group R-2 the maximum riser height shall be 8 1/4 inches (210 mm)

and the minimum tread depth shall be 9 inches (229 mm). A 1-inch (25 mm) nosing shall be provided on stairways with solid risers.

- (ii) That Section 913.2.2 (relating to circuits supplying fire pumps) is excluded.
- (iii) That in Section 2609.4 (relating to area limitations and greenhouses), exception three is modified to include “or maintaining plants”.

(2) Chapter 11 of the “International Building Code of [2015] **2018.**”

(3) The “International Mechanical Code of 2015.”

* * * * *

(5) The “International Performance Code of 2009.”

(6) The “International Plumbing Code of 2015[.]” **except:**

(i) [Except that a] **A** municipality within a county of the second class may 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 Local Health Administration Law (16 P.S. § § 12001—12028), 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.

(iii) The accessibility provisions contained in the following sections of the “International Plumbing Code of 2018” are adopted:

(A) Section 403.4 (relating to signage).

(B) Section 403.5 (relating to drinking fountain location).

(C) Section 404 (relating to accessible plumbing facilities).

(D) Section 405.3.1 (relating to water closets, urinals, lavatories and bidets).

(7) The “International Residential Code of 2015,” except that:

(i) The provisions of R314.4 requiring interconnected smoke alarms do not apply to one-family and two-family dwellings undergoing alterations,

repairs or additions. Noninterconnected battery operated smoke alarms shall be installed in these dwellings.

- (ii) The following specifications apply to 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) 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.
- (iii) The following provisions are excluded:
 - (A) Section R302.5.1 (relating to opening protection).
 - (B) Section R322.2.1 (relating to elevation requirements for flood hazard areas).
 - (C) Section R322.3.2 (relating to elevation requirements for coastal high hazard areas).
 - (D) Section R325.5 (relating to openness).
 - (E) Table R507.6 (relating to deck beam span lengths).
 - (F) Table R602.7.5 (relating to minimum number of full height studs at each end of headers in exterior walls).
 - (G) Section N1101.4 (relating to above code programs).
 - (H) Section N1103.3.5 (relating to building cavities).

- (I) Section N1103.5.2 (relating to demand recirculation systems).
 - (J) Table N1106.4 (relating to maximum energy rating index).
 - (K) Section P2503.5.1 (relating to rough plumbing).
 - (L) Section E3901.7 (relating to outdoor outlets).
- (iv) The following provisions are modified:
- (A) Section N1101.6 (relating to defined terms) is amended by adding the definition of “framing factor” as the fraction of the total building component area that is structural framing.
 - (B) Table 1102.1.2 (relating to insulation and fenestration criteria) is amended by adding “or 18 + 6.5^H” to climate zone 6 wood frame wall R-value.
 - (C) Table N1102.1.2 (relating to insulation and fenestration requirements by components) is amended by adding footnote j which permits R-18 insulation to be permitted in place of R-20 requirement provided the wall framing factor is 20% or less or exterior walls with 24” o.c. nominal vertical stud spacing.
 - (D) Section N1102.4.1.2 (relating to testing) is amended as having an air leakage rate not exceeding five air changes per hour for all climate zones.
 - (E) Section N1105.2 (relating to mandatory requirements) is amended to require compliance with the mandatory provisions of section N1102.4.1.2.
 - (F) Section M1601.4.1, exception 3 (relating to joints, seams, and connections) is amended by excluding this exception for snap-lock and button-lock type joints and seams located outside of conditioned spaces.
 - (G) Section M1602.2 item 2 (relating to return air openings) is amended to add the word perimeter before the first use of the word room.
 - (H) Section E3901.11 (relating to foyers) is amended by replacing 3 feet (914 mm) with 6 feet (1829 mm) and a minimum of one receptacle.
- (v) The following provisions of the International Residential Code of 2009 are adopted:

- (A) Section R302.5.1 (relating to opening protection).
 - (B) Section R322.2.1 (relating to elevation requirements for flood hazard areas).
 - (C) Section R322.3.2 (relating to elevation requirements for coastal high hazard areas).
 - (D) Section N1101.8 (relating to above code programs).
 - (E) Section N1103.2.3 (relating to building cavities).
 - (F) Section P2503.5.1 (relating to rough plumbing).
 - (G) Section E3901.7 (relating to outdoor outlets).
- (vi) The following provisions of the “International Residential Code of 2018” are adopted:
- (A) Section R325.5 (relating to openness) is adopted except for exception 2.
 - (B) Table R507.5 (relating to deck beam span lengths).
 - (C) Section R602.3.1 (relating to stud size, height, and spacing) exception 3.
 - (D) Table R602.3(6) (relating to alternate wood bearing wall stud size, height, and spacing).
 - (E) Table R602.7.5 (relating to minimum number of full height studs at each end of headers in exterior walls).
 - (F) Section N1103.3.6 (relating to ducts buried within ceiling insulation).
 - (G) Section N1103.3.7 (relating to ducts located in conditioned space).
 - (H) Table N1106.4 including footnote “a” (relating to maximum energy rating index).

* * * * *

- (9) The “International Energy Conservation Code of 2015” except that:

- (i) The following provisions are excluded:
 - (A) Section R102.1.1 (relating to above code programs).
 - (B) Section C104.2.6 (relating to final inspection).
 - (C) Section R403.3.5 (relating to building cavities (mandatory)).
 - (D) Section R403.5.2 (relating to demand recirculation systems).
 - (E) Table R406.4 (relating to maximum energy rating index).
 - (F) Section C408.2.4 (relating to preliminary commissioning report).

- (ii) The following provisions are modified:
 - (A) Chapter RE 2 is amended by adding the definition of “framing factor” as the fraction of the total building component area that is structural framing.
 - (B) Table R402.1.2 (relating to insulation and fenestration requirements by component) is amended by adding “or 18 + 6.5^H” to climate zone 6 wood frame wall R-value.
 - (C) Table R402.1.2 (relating to insulation and fenestration requirements by components) is amended by adding footnote j which permits R-18 insulation to be permitted in place of R-20 requirement provided the wall framing factor is 20% or less or exterior walls with 24” o.c. nominal vertical stud spacing.
 - (D) Section R402.4.1.2 (relating to testing) is amended as having an air leakage rate not exceeding five air changes per hour for all climate zones.
 - (E) Section R405.2 (relating to mandatory requirements) is amended to require compliance with the mandatory provisions of section R402.4.1.2.

- (iii) The following provisions of the International Energy Conservation Code of 2009 are adopted:
 - (A) Section 102.1.1 (relating to above code programs).
 - (B) Section 104.3 (relating to final inspection).
 - (C) Section 403.2.3 (relating to building cavities).

- (iv) The following provisions of the International Energy Conservation Code of 2018 are adopted:
 - (A) Section R403.3.6 (relating to ducts buried within ceiling insulation).
 - (B) Section R403.3.7 (relating to ducts located in conditioned space).
 - (C) Table R406.4 including footnote “a” (relating to maximum energy rating index).

- (10) The “International Existing Building Code of 2015” except that Section 101.2 (relating to scope) is modified to add an exception for detached residential buildings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures to comply with either the International Existing Building Code of 2015 or the International Residential Code of 2015.
 - (i) The accessibility provisions contained in the following sections of the “International Existing Building Code of 2018” are adopted:
 - (A) Section 301.5 (relating to compliance with accessibility).
 - (B) Section 305 (relating to accessibility for existing buildings).
 - (C) Section 1101.2 (relating to creation or extension of nonconformity).
 - (D) Section 1508 (relating to construction sites).
 - (E) Appendix “B” (relating to supplementary accessibility requirements for existing buildings and facilities).

- (11) The “International Wildland-Urban Interface Code of 2015.”
- (12) Appendix E of the “International Building Code of [2015] 2018.”
- (13) Appendix H of the “International Building Code of 2009.”

* * * * *

§ 403.26. Swimming pools.

- (a) A swimming pool, hot tub and spa which is accessory to a one- or two-family dwelling must comply with the “International Residential Code of 2015” which adopts, by reference, the “International Swimming Pool and Spa Code of 2015.”

- (b) A swimming pool, hot tub or spa that is not accessory to a one- or two-family dwelling must comply with the Public Bathing Law (35 P. S. §§ 672—680d) and the “International Building Code of 2015” which adopts, by reference, the “International Swimming Pool and Spa Code of 2015.” The accessibility provisions contained in Section 307.1.4 (relating to general design requirements) of the “International Swimming Pool and Spa Code of 2018” are adopted.

§ 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, uncertified buildings within the Department’s jurisdiction must meet the following requirements which do not apply to uncertified buildings under subsection (a):

* * * * *

- (2) Fire safety requirements in the “International Building Code of 2015” for fire alarms, fire extinguishers, heat and smoke detectors, automatic sprinkler systems and occupancy and incidental use separations. The following also apply:
 - (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. 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 by December 22, 2010, 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, accessibility requirements will not 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 must 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 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 of [2015] 2018.”
 - (iii) If construction of the building began after February 17, 1989, all accessibility requirements of the “International Building Code of [2015] 2018” shall be met.
- (4) Structural requirements will 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 of 2015.” If the building is dangerous, the Department may impose only those requirements minimally necessary to remove danger to the building’s occupants.

* * * * *

CHAPTER 405. ELEVATORS AND OTHER LIFTING DEVICES

§ 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):

* * * * *

- (3) “ASME A90.1-1997” including “A90.1a-1999” and “A90.1b-2001” addenda for belt man-lifts.
- (4) “ANSI B77.1 [2011 and supplement ANSI B77.1a-2012] 2017” for passenger ropeways, aerial tramways, aerial lifts, surface lifts, tows and conveyors.
- (5) “ASME A18.1-1999” including “A.18.1a-2001” addenda for vertical and inclined wheelchair lifts and stairway lifts. Testing under sections 10.3.2 and 10.3.3 shall comply with § 405.8 (relating to periodic test results).

* * * * *



April 3, 2019

The Honorable George D. Bedwick
Chairman, Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Re: Final-Omitted Regulation 12-108
Bureau of Occupational and Industrial Safety
34 Pa. Code Part XIV, Uniform Construction Code,
Chapters 401, 403 and 405

Dear Chairman Bedwick:

Enclosed is a final-omitted rulemaking package consisting of a face sheet, preamble, annex A and regulatory analysis form. The Department of Labor & Industry is submitting this rulemaking to promulgate regulations under the Pennsylvania Construction Code Act, Act of November 10, 1999, *as amended*, 35 P.S. § 7210.101 – 7210.1103 (PCCA). This final-omitted rulemaking is to amend 34 Pa. Code §§ 401.1, 403.21, 403.26, 403.28 and 405.2 to update the accessibility provisions of the most recently published edition of the International Code Council (ICC) codes and to implement the latest standards for the operation of ski lifts prescribed by the American National Standards Institute (ANSI).

Section 304(a)(3) of the PCCA provides that, by December 31 of the year of issuance, the Department shall adopt regulations updating the accessibility provisions of the most recently published edition of the ICC codes and any other accessibility requirements which shall be specified in the regulations, or contained in or referenced by the UCC relating to persons with disabilities. In addition, Section 302(a)(2) of the PCCA requires the latest standards for the operation of ski lifts prescribed by the American National Standards Institute (ANSI) be included in Chapter 35 of the UCC.

Comments, suggestions or questions should be directed to Matthew W. Kegg, Director, Bureau of Occupational and Industrial Safety, Room 1613, Labor and Industry Building, 651 Boas Street, Harrisburg, PA 17121; Telephone: (717) 783-6304; Fax: (717) 787-8363. The email address is: mkegg@pa.gov.



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

Very truly yours,

A handwritten signature in black ink, appearing to read "W. Gerard Oleksiak". The signature is fluid and cursive.

W. Gerard Oleksiak
Secretary

cc w/encl: The Honorable W. Gerard Oleksiak, Secretary
 The Honorable Meg Snead, Secretary of Planning and Policy
 Robert V. O'Brien, Executive Deputy Secretary
 Jennifer L. Berrier, Deputy Secretary Safety & Labor-Management Relations
 Marc Farrell, Regulatory Specialist, Governor's Office of Policy
 Ronald Foster, Assistant Director of Legislative Affairs, Governor's Budget Office
 Joanne Manganello, Director of Legislative Affairs
 Kelly M. Martini, Executive Policy Manager
 Kelly K. Smith, Executive Deputy Chief Counsel
 Matthew W. Kegg, Director, Bureau of Occupational and Industrial Safety
 Robert C. Schramm, Deputy Chief Counsel

