



UNIFORM CONSTRUCTION CODE
Act No. 45 of 1999

TITLE 34. LABOR AND INDUSTRY

**UNIFORM CONSTRUCTION CODE
ADMINISTRATIVE AND ENFORCEMENT;
ELEVATORS AND OTHER LIFTING
DEVICES**

The Department of Labor and Industry (Department), Bureau of Occupational and Industrial Safety, adopts this final-form rulemaking to provide detailed administrative and enforcement provisions and standards for elevators and other lifting devices of the Uniform Construction Code (UCC) under the Pennsylvania Construction Code Act (act) (35 P. S. §§ 7210.701--7210.1103) to read as set forth in Annex A.

In response to comments received and meetings with affected parties, some changes have been made to the proposed rulemaking published at 32 Pa.B. 4127 (August 24, 2002). An earlier draft of this final-form rulemaking was submitted on May 8, 2003. The Department withdrew the final-form rulemaking on June 9, 2003.

This final-form rulemaking includes the Department's adoption of the International Building Code (IBC) and other codes issued by the International Code Council (ICC), which were published in February 2003.

Statutory Authority

This rulemaking is adopted under sections 301 and 304 of the act (35 P. S. §§ 7210.301 and 7210.304), which require the Department to promulgate regulations adopting the 1999 "BOCA National Building Code" (BOCA Code) and successor codes and allow the Department to make changes to Chapter 1 of the BOCA Code. The Department must also adopt the "International Fuel Gas Code" and prescriptive methods for energy related standards under section 301 of the act.

Section 301 of the act requires the final-form rulemaking to include a provision providing the Department exclusive power to grant modifications and decide issues of technical infeasibility under the accessibility provisions of the UCC. Section 105(c) of the act (35 P. S. § 7210.105(c)) continues the Department's administrative and inspection authority over elevators and other lifting devices. The Department is adopting plan review and inspection fees under section 301(d)(2) of the act.

Background

In accordance with the act, the Department must promulgate the UCC. The UCC will provide uniform standards for builders and design professionals, and greater protection for building owners, occupants and the general public. The Department, municipalities and third-party agencies in this Commonwealth will utilize the UCC to insure that this Commonwealth has a UCC that will promote safety, health, sanitary construction, state-of-the-art techniques and cost-effectiveness in residential and commercial construction.

This final-form rulemaking establishes administrative provisions, enforcement provisions and elevator and other lifting devices standards for the UCC required by the act. This final-form rulemaking adopts the ICC model codes as part of the UCC.

For elevators and lifting devices, this final-form rulemaking adopts: "ASME A17.1-2000" with "A17.1a-2002" addenda (Part 1 (General); Part 2 (Electric elevators); Part 3 (Hydraulic elevators); Part 4 (Elevators with other types of driving machines); Part 5 (Special application elevators); Part 6 (Escalators and moving walks); Part 7 (Dumbwaiters and material lifts); Part 8 (General requirements); Part 9 (Standard codes and specifications); "ASME B20.1" for vertical and inclined reciprocating conveyors without automatic transfer devices; "ASME A90.1-1997" including "A90.1a-1999" and "A90.1b-2001" addenda for belt man-lifts; "ANSI B77.1-1999" for passenger ropeways, aerial tramways, aerial lifts, surface lifts, tows and conveyors; and "ASME A18.1-1999" including "A.18.1a-2001" addenda for vertical and inclined wheelchair lifts and stairway lifts.

The final-form regulations containing the UCC's training and certification requirements under section 701 of the act (35 P. S. § 7210.701) were published at 32 Pa.B. 1849 (April 13, 2002).

The UCC will take effect 90 days after publication of this final-form rulemaking after each of the Commonwealth's 2,566 municipalities formally decides whether it will administer the UCC and provides notification to the Department. See section 501 of the act (35 P. S. § 7210.501).

At 32 Pa.B. 4127, the Department published notice of proposed rulemaking and invited all interested parties to provide written comments. The Department held three public hearings to take testimony on the proposed rulemakings. These public hearings were held: September 9, 2002, in Monroeville; September 11, 2002, in Plymouth Meeting; and September 13, 2002, in Grantville. The proposed rulemaking was also posted on the Department's website. The Department received comments from 138 persons on the proposed rulemaking. Comments were submitted from builders, contractors, architects, municipalities, third-party agencies, hospitals, child-care providers, legal services, engineers, accessibility advocates, elevator companies, plumbers, trade unions, building code associations, energy conservation groups, manufacturers, other associations and individuals.

The Independent Regulatory Review Commission (IRRC) submitted its comments through a letter dated October 25, 2002. The House Labor Relations Committee also provided comments in a letter dated October 15, 2002, which included comments from Senator James J. Rhoades, the Pennsylvania Manufactured Housing Association, the Hospital and Healthsystem Association of Pennsylvania (HAP), the Modular Buildings Association, the Pennsylvania State Association of Township Supervisors (PSATS), the Pennsylvania Petroleum Marketers and Convenience Store Association and Eric Holman, P. M., Associates.

The Department also received comments from the following: City of Allentown, American Forest and Paper Association, American Institute of Architects (AIA), American Iron and Steel Institute, Amerital of Pittsburgh, Senator Gibson E.

Armstrong, Associated Builders and Contractors, Inc., Associated Day Care Service Inc., Jon Benson, Bear Creek Township, Berks Homebased Childcare Providers Association, Better Kid Care Program, Holly Caldwell, Caring for Our Children, Centre Region Council of Governments, Commercial Technical Services, Inc, Commonwealth Code Inspection Service, Inc., Community Legal Services, Cranberry Township, Delaware Valley Association of Energy Engineers, Danville Child Care Development Center, Edward A. Donoghue, Alma Doumbouya, Eastern Paralyzed Veterans Association, Eaton Corporation, Yvonne Ellison, Facilities Design & Construction Company, Family Child Care Associates of Lehigh Valley, Ed Ferree, Flavey Energy Engineering, PC, Fire Safety Consultants, Frankstown Township, George W. Gibson and Associates, Inc., Harold W. Godwin, Carol Godwin, Patty Graff, Steve Greco, Grindel Elevator Company, Hampton Concrete, Heritage Valley Health System, Hospital Association of Pennsylvania, Haubert Homes, Inc., International Association of Plumbing and Mechanical Officials, International Brotherhood of Electrical Workers, Martha W. Issler, Marvin Kanze, Bob Kaver, John J. Kline and Associates, Latrobe Hospital, Loss Control Associates Incorporated, Ann Luscan, Maternity Care Coalition, McWapec County Boroughs Association, Middle Department Inspection Agency, Inc., Modular Building Systems Association, Gerald F. Mizgorski, National Electrical Contractors Association, National Electrical Contractors Association--Western Pennsylvania Chapter, National Fire Protection Association (NFPA), Neighborhood Child Care Resource Program, Tom Palaski, Pennsylvania Association of Code Officials, Pennsylvania Association of Plumbing, Heating and Cooling Contractors, Inc., Pennsylvania Builders Association (PBA), Pennsylvania Building Officials and Code Administrators, Pennsylvania Child Care Association, Pennsylvania Department of Conservation and Natural Resources, Pennsylvania Home-based Child Care Providers Association, Pennsylvania Housing Finance Agency, Pennsylvania Housing Research Center (PHRC), Pennsylvania Human Relations Commission, Pennsylvania Manufactured Housing Association, Pennsylvania Petroleum Marketers and Convenience Store Association, Pennsylvania Propane Gas Association (PPGA), Pennsylvania Ski Areas Association, Pennsylvania Society of Professional Engineers, PSATS, Peters Township Sanitary Authority, City of Philadelphia--Department of Licenses & Inspections, City of Pittsburgh--Bureau of Building, Plymouth Township, PM Associates, The Preschool Project, Quest, Brad Randall, Radnor Township, Joseph P. Rapine, Rene Loubet Electric, Responsible Energy Codes Alliance, Richland Township, George M. Rohana, Rossman Hensley, Inc, Marce Schulz, Robert L. Seymour & Associates, Inc., Settlement Music School, Wes Smith, Lawrence G. Speilvogel, Rhea Starr, Wilhemena Stewart, Sparta Township Supervisors, Ken Strup, Noel Susskind, John Sykes, Trane, Tredyffrin Township, Universal Accessibility Advisory Board (UAAB), Upper Paxton Township Board of Supervisors, Upper Providence Township, Jeff Walker, Jeffrey R. Walzer, Carl M. Watson, Tom Wenner, West Penn Allegheny Health System, Augie Whymeyer, Whitpain Township, WIDCO, Harriet J. Williams and City of Williamsport.

The Department originally submitted this rulemaking in final-form on May 8, 2003. The House Labor Relations Committee held two meetings on the Department's final-form rulemaking. First, the House Labor Relations and Local Government Committees met with the Department on May 22, 2003. The House Labor Relations Committee received numerous comments concerning this rulemaking and, along with the Local Government Committee, met with some of the commentators on June 5, 2003. On June 9, 2003, the Department withdrew its final-form rulemaking. The Labor Relations Committee also provided additional comments on June 30, 2003. The Department also met with Committee members. Revisions reflecting comments from the House Labor Relations and Local Government Committees are contained in this final-form rulemaking.

Regulatory Review and Promulgation

Since the passage of the act, extensive outreach and communication efforts were undertaken to gain input from the various affected parties including representatives from most of the associations affected by this final-form rulemaking and many government agencies. Department representatives met almost weekly with interested persons to answer questions and solicit comment.

The Department utilized its website, www.dli.state.pa.us, to provide updates on the regulatory process, to provide information about the act and to solicit comments and questions. The Department also utilized its website to notify stakeholders of regulation updates and drafts. The stakeholder list comprised approximately 375 interested parties. Prior to issuance of proposed rulemaking, the Department held a meeting on May 31, 2001, in Grantville, PA with stakeholders and received comments on an initial stakeholder draft of this rulemaking. As described earlier, the Department held three public hearings on the proposed rulemaking and placed a draft of the rulemaking on its website.

This final-form rulemaking was discussed with the Department's Industrial Board and Accessibility Advisory Board. On May 30 and September 19, 2002, Department representatives briefed the House Labor Relations Committee on the UCC and the Department's progress on implementing regulations. The Department also briefed the House Local Government Committee. The Department also met with the House Committees and its members after submission of the first final-form rulemaking.

Purpose

As stated in section 102(b) of the act (35 P. S. § 7210.102(b)), the purpose of the act is to insure safe, uniform, cost-efficient, modern construction standards throughout this Commonwealth by adopting a Statewide building code governing the construction, alteration, repair and new occupancy of all structures in this Commonwealth.

This final-form rulemaking sets forth the administrative and enforcement provisions of the Statewide building code. It establishes the UCC's scope, lists the prescriptive methods adopted by the Department to comply with the "International Energy Conservation Code" and provides definitions and standards for child-care facilities. The final-form rulemaking prescribes the permit and inspection processes for commercial and residential construction. It establishes rulemaking procedures for municipalities to opt in or out of UCC enforcement, and enforcement procedures. This final-form rulemaking provides for the retention and sharing of records between the Commonwealth and municipalities choosing to enforce the UCC. It also enumerates safety standards for passenger elevators, conveying systems, lumber elevators, stage lifts, orchestra and organ console elevators and other lifting devices.

Affected Persons

This final-form rulemaking will affect construction contractors, building owners, persons building or renovating homes, design professionals, the Department, municipalities, political subdivisions and third-party agencies. This final-form rulemaking will provide a Statewide uniform building code for construction for commercial and residential buildings. Construction contractors, design professionals and building owners will be required to design and construct buildings to meet the requirements of the UCC. The Department, municipalities and political subdivisions opting to enforce the UCC and third-party agencies under contract to municipalities or building owners will have to approve and inspect commercial and residential buildings for UCC compliance.

This final-form rulemaking also establishes safety requirements for passenger elevators, conveying systems, lumber elevators, stage lifts, orchestra and organ console elevators and other lifting devices. The Department, building owners, elevator and lifting device operators and third-party elevator inspection companies will also be affected by this final-form rulemaking. Building owners and elevator and lifting device operators will be required to construct and maintain elevators and lifting devices in accordance with the UCC. The Department and third-party elevator inspection companies will have to inspect and test this equipment for compliance with UCC requirements.

Fiscal Impact

The Commonwealth will incur ongoing costs related to the administration and enforcement of the UCC required under the act. The Department will augment its plan review staff and may have to increase its inspection staff to review and approve plans and perform required inspections under the UCC. The Department will have to periodically review all municipal UCC enforcement programs to assure compliance with the accessibility provisions of the UCC.

Municipalities will only incur costs if they choose to administer and enforce the UCC. Costs will depend on how a municipality administers its program and the scope of the municipality's current building code program. However, these costs may be recovered from municipal plan review and inspection fees.

Owners of new commercial and residential buildings may save costs in municipalities currently administering building code programs utilizing National standards. In these jurisdictions, there will no longer be a duplication of plan review and inspection by the municipality and the Commonwealth. Construction contractors and design professionals may also save costs because of standardization of building codes throughout this Commonwealth.

Response to Comments

The following addresses the common areas of concern found in the comments received from the public, the House Labor Relations Committee and IRRC.

The AIA and the PSATS questioned why the Department chose to rewrite Chapter 1 of the IBC pertaining to administration and enforcement rather than revising Chapter 1 only as necessary. Revising Chapter 1 in its entirety was necessary for the Department's implementation and administration of the act. See section 301(a) of the act.

The Department is required to promulgate its own specific requirements for administration and enforcement in addition to the provisions of Chapter 1 of the IBC and the "International Residential Code" (IRC). These specific requirements must exceed some provisions of Chapter 1 of the IBC or the IRC to properly administer the act. These ICC model codes do not reflect the act's provisions concerning municipalities that "opt out" of enforcement--section 501(e) of the act; the Commonwealth's health care facilities--section 104(d)(3) and (4) of the act (35 P. S. § 7210.104(d)(3) and (4)) and sections 105(d) and 301(d)(2) of the act; prescriptive energy standards--section 301(c) of the act; accessibility--section 105(a) of the act and section 106 of the act (35 P. S. § 7210.106); adoption--section 501 of the act; third-party agencies-- section 103 of the act (35 P. S. § 7210.103) (definition of "third-party agency"); historical buildings and sites--section 902 of the act (35 P. S. § 7210.902); State-owned buildings--section 105(b) of the act; swimming pools--section 104(f) of the act; highway occupancy permits--section 502(b) of the act (35 P. S. § 7210.502(b)); and religious exemptions--section 901(b) of the act (35 P. S. § 7210.901(b)), among other provisions. Modification of Chapter 1 was also necessary to incorporate provisions of other relevant laws such as the saved provisions of the act of April 27, 1927 (P. L. 465, No. 299) (35 P. S. §§ 1221--1235), know as the Fire and Panic Act, and to reflect stakeholder comments that the Department adopted. Revising Chapter 1 to provide one source for administrative standards will provide for more effective enforcement.

The AIA also questioned the Department's incorporation of technical provisions from ICC codes in this final-form rulemaking. The Department needed to incorporate "technical provisions" to reflect the act requirements and to provide a UCC for use in this Commonwealth.

The AIA expressed concerns about conflicts between the rulemaking and IBC codes. Section 403.27(e) (relating to applicability and use of standards) specifically addresses conflicts by stating that if there is a conflict between the final-form rulemaking and the provisions of the codes relating to administration incorporated under § 403.21(a) (relating to Uniform Construction Code), the final-form rulemaking applies.

Section 401.1 (relating to definitions) was changed in response to a number of comments. The term "ANSI" was added to the definition section since the "American National Standards Institute" was mentioned frequently in Chapter 405 (relating to elevators and other lifting devices).

IRRC indicated that it would be helpful for the Department to reference the list of certified officials from the training and certification regulation in the definition of "building code official." This definition now contains a reference to § 401.7 (relating to certification category specifications). The definition of "permit" was modified to clarify that a building code official may issue certificates of occupancy and building permits.

The AIA questioned the use of the term "code administrator" in the definition of "certificate of occupancy." The term "code administrator" in the definition was changed to "building code official."

IRRC commented that the definition of "commercial construction" in the proposed rulemaking included a building, structure or facility while the IBC provides definitions for "building" and "structure" and not for "facility." IRRC suggested that the Department delete the term "facility" from the definitions and from parts of the rulemaking. However, this term is essential for accessibility compliance and is defined in Chapter 11 of the IBC. This term is also important for other UCC-regulated facilities such as parks and other outdoor spaces that are not buildings or structures. The final-form rulemaking utilizes the Chapter 11 definition of "facility."

IRRC questioned use of the phrase "accessory structure" in the definition of "residential building." The IRC contains a definition of this phrase.

IRRC indicated that "ComcheckTM" and "MECcheckTM" were only used in one section of the rulemaking and suggested the definitions may not be necessary. Both of these definitions were deleted.

The Department received over 20 comments concerning § 403.23 (relating to child day care facilities). The Department redrafted that section to eliminate

confusion and to allow for greater compliance. The terms "family child day care home" and "group child day care home" are no longer used and have been deleted from the definitions.

"ICC Evaluation Service, Inc." is the successor organization to "National Evaluation Service, Inc." The definitions are modified to reflect this change.

Many commentators encouraged the Department to use the now-current 2003 versions of the ICC codes that were published in February 2003. The Department adopted the 2003 versions of the ICC codes as reflected in § 403.21. See section 304(a) of the act. The Department modified the definitions of "International Building Code," "ICC Electrical Code," "International Energy Conservation Code," "International Fire Code," "International Fuel Gas Code," "International Mechanical Code," "International Plumbing Code" and "International Residential Code" to reflect this change.

The Department added three more 2003 ICC codes and a standards writing organization as definitions: "ISO," "International Existing Building Code," "International Performance Code" and the "International Urban-Wildland Interface Code." The Department also deleted the definition of "Code Requirements for Housing Accessibility" because its provisions were incorporated in the other 2003 codes.

The Department revised the definition of "Uniform Construction Code" that was promulgated as part of training and certification. This definition now reflects the current 2003 versions of the model codes, refers to the ICC instead of the BOCA Code, updates the ICC's telephone number and references the entire regulatory chapter.

The Department added the definition of "International Accreditation Service" because it is now referenced in § 403.44 (relating to alternative construction materials and methods). The definition of "NSPI" was added because it is referenced in new § 403.26 (relating to swimming pools).

The PHRC changed the title of its energy compliance publication. The definition "PHRC Alternative to Chapter 11" is deleted and replaced with "Pennsylvania's Alternative Residential Energy Provisions."

IRRC commented that the term "legally occupied" used in § 403.1(a) (relating to scope) should be defined. It also suggested definitions for the terms "occupancy" and "occupied." The Department has addressed those comments by adding the definition of "legally occupied."

IRRC requested clarification of the terms "postmark" and "personal delivery" used in §§ 403.122 and 403.142 (relating to appeals, variances and extensions of

time; and Accessibility Advisory Board). Accordingly, the Department added definitions for "personal delivery" and "postmark."

The Department made significant changes to § 403.62 (relating to permit requirements and exemptions) to allow exemptions from permit requirements for numerous home repairs. Accordingly, the Department also added a definition for "repairs."

IRRC questioned the use of the phrase "the dwelling's accessory structures" in the definition of "residential building." The Department did not further define this phrase because it is a term of art among construction code officials and is defined in the IRC. The Department also deleted the last sentence in this definition because it was redundant.

Members of the Accessibility Advisory Board commented that the definition of "variance" did not notify builders and building owners that only the Department may grant variances from the UCC's accessibility provisions. The Department modified the definition to clarify that the Department grants accessibility variances.

IRRC also requested that the Department explain why it defined terms that are already explained in IBC codes incorporated in the UCC. The Department defined some of these terms to make the final-form rulemaking easier to understand and to be used as one source.

IRRC, the House Labor Relations Committee, the AIA and numerous other commentators commented that fees for certain types of facilities might be excessive. Some commented that the fees were too difficult to determine. The AIA questioned why fees needed to be part of the final-form rulemaking. IRRC also asked whether the variance request fee was based on a request or an appearance before the appropriate body.

The act provides for the establishment of fees by regulation. See section 301(d)(2) of the act. This final-form rulemaking is the most reasonable and practical means to set the fees for the Department's administration and enforcement of the UCC. Setting fees in this final-form rulemaking allows for public scrutiny and Department's justification for its fees.

The Department reviewed the entire fee schedule and related comments closely. In § 401.2 (relating to Department fees) of the final-form rulemaking, fees are reduced, the fee structure is simplified and the elevator fee provisions are reorganized. New buildings and additions are assessed a basic fee of \$100 plus 20¢ for each square foot of floor area. New structures and facilities other than buildings are assessed a fee of \$300. Alterations, renovations or modifications of existing buildings or structures are assessed a basic fee of \$100 plus \$20 for each \$1,000 of estimated cost of alterations, renovations or modifications. Accelerated approvals are assessed a fee of \$300. Demolition of building or structure is

assessed a fee of \$100. The variance request fee language was modified to state that the fee is based on each application. A \$100 fee was also added to § 401.2(b)(6) to allow for the issuance of an Annual Permit, under §§ 403.42(f) and 403.42a(m) (relating to permit requirements and exemptions; and permit application) for alterations to an already approved electrical, gas, mechanical or plumbing installation, as requested by the AIA.

Section 401.2(b)(4) lists a \$200 fee for accessibility plan review and inspection. IRRRC questioned this fee's purpose. The Department will charge this fee when it has to perform accessibility plan review and inspection when a municipality "opted" to enforce the UCC and has not yet obtained a certified accessibility inspector/plans examiner. Section 701(e)(2) of the act requires the Department to retain jurisdiction over accessibility plan review and inspection until a municipal code administrator is certified in this category.

IRRC commented that the terms "accessory character" and "miscellaneous structure not classified in the UCC" in § 403.1(b)(3) were unclear and open to interpretation. The Department modified this section to delete those references. IRRC also asked the reason that sheds were the only buildings given a size limitation in the rulemaking. The final-form rulemaking was modified to clarify that all of the listed structures must meet the building area limitation found in section 103 of the act (defining "utility and miscellaneous use structures").

The PPGA commented that the UCC would not be applicable to liquefied petroleum gas tanks and piping since the newly enacted Propane and Liquefied Petroleum Gas Act (35 P. S. §§ 1329.1--1329.19) preempts the act's coverage of this area. The Department added § 403.1(b)(6) to exclude those installations. The PSATS also commented that the addition of § 403.1(b)(6) would deny municipalities the authority to enforce piping and installation requirements under the UCC. The Department will issue separate regulations concerning the regulation of liquefied petroleum gas and piping in accordance with the Propane Liquefied Petroleum Gas Act.

Section 403.1(c)(2) allows construction commenced before the UCC's effective date to continue without a permit if a permit was not required at that time. IRRRC suggested that the Department consider imposing a time limit for completion of this construction. The Department has determined that it will not impose this time limit because the act does not set forth a deadline, policing this deadline would be unreasonably difficult and numerous individuals informally expressed concern about this type of deadline.

Peters Township Sanitary Authority commented that the Department of Environmental Protection, under 25 Pa. Code Chapter 73 (relating to standards for onlot sewage treatment facilities), regulates onlot individual sewage disposal systems. The Department added § 403.1(b)(7) to exclude these installations.

Based on comments to § 403.2 (relating to other statutes or ordinances), the Department further clarified the UCC's rescission and preemption of current construction standards found in statutes, local ordinances and regulations. In the final-form rulemaking, the Department incorporated language from section 303(b)(1) of the act (35 P. S. § 7210.303(b)(1)). Preemption does not apply to ordinances in effect on July 1, 1999, or reenactments of simultaneously repealed ordinances, which were originally adopted before that date which meet or exceed the UCC. See section 303(b)(1) of the act.

Numerous commentators questioned the building code official's ability to delegate duties under the act and the UCC to other certified or registered building code professionals. The Department added § 403.3 (relating to building code official delegation) to clarify that a municipality or third-party agency must employ or contract with a building code official to enforce the act. This section also clarifies that a building code official may delegate duties to construction code officials or current code administrators.

The NFPA, IRRRC and other commentators questioned the Department's adoption of the "ICC Electrical Code" as part of the UCC in § 403.21(a)(2). These commentators encouraged the Department to adopt the "National Electrical Code" (NEC) instead. The act requires the Department to adopt all of the ICC "family" of codes referenced in Chapter 35 of the IBC, including the "ICC Electrical Code." The Department does not have the authority to adopt other codes, such as the NEC, except if these codes are incorporated in an ICC building code or enumerated in the act. See sections 301(a) and 304 of the act. The IRC and the "ICC Electrical Code," incorporated in Pennsylvania's UCC, utilize the NEC 2002 standards. The "ICC Electrical Code" contains only administrative provisions and adopts, by reference, the NEC as its electrical construction standard. Chapters 33--42 of the IRC also utilize the NEC's electrical construction standards.

The final-form rulemaking adopts two new 2003 ICC code publications in § 403.21(a)(10) and (11): the "International Existing Building Code" and "International Urban-Wildland Interface Code." The PSATS questioned the Department's decision to include these codes and Appendix H (relating to signs) in the final-form rulemaking. The Department must adopt the ICC "family" of codes referenced in Chapter 35 of the 2003 IBC, which include these codes. The IBC contains no requirements for signs other than those found in Appendix H. Signage requirements are necessary for safety throughout this Commonwealth.

The Department deleted "Code Requirements for Housing Accessibility" from § 403.21 because the 2003 ICC codes do not include this publication.

In response to IRRRC's comments, § 403.21(d) of the final-form rulemaking enumerates that the IRC will apply to stairway construction in use group R-3 after December 31, 2003.

The House Labor Relations Committee, IRRC and the UAAB urged the Department to adopt Appendix E of the IBC. The UAAB informed the Department that certain accessibility standards would be repealed by the UCC if Appendix E is not adopted. The Department adopted Appendix E in § 403.21(a)(12).

The Department also received comments on the lack of standards for signs and swimming pools. The Department modified the final-form rulemaking to adopt Appendix H of the IBC for signs in § 403.21(a)(13). The Department also incorporated Appendix G of the IRC for residential swimming pools in § 403.21(a)(14) to comply with section 104(f) of the act. The final-form rulemaking also contains additional standards for nonresidential pools, hot tubs and spas in § 403.26.

The Department revised § 403.21(e) to require use of the most current version of "COMcheck™." This section also contains the newest version of "MECcheck™," which is now renamed as "REScheck™."

IRRC requested that the Department explain the impact of the "Pennsylvania's Alternative Residential Energy Provisions" (formerly "PHRC Alternative to Chapter 11") on the availability of choices of home heating for new construction. The Pennsylvania Petroleum Marketers and Convenience Store Association also contended that this alternative particularly favored one heating fuel source at the expense of others. Both the International Energy Conservation Code (IECC) and REScheck™ allow a trade-off for the use of extra high-efficiency HVAC equipment, if a justification is provided using a valid energy analysis. The use of the trade-off is not mandated, nor is its use based on intent to favor one heating fuel source over another. If oil furnaces can be manufactured to attain a 90 AFUE, a trade-off would be allowed for their use.

IRRC questioned and a number of commentators objected to the rulemaking allowing the use of the PHRC prescriptive energy conservation alternative (formerly the "PHRC Alternative to Chapter 11") in § 403.21(e).

Under section 301(c) of the act, the Department approved an alternative approach to the prescriptive energy conservation measures in the IRC 2003 and the "International Energy Code 2003" for residential construction. The final-form rulemaking will allow a permit applicant to utilize, as an alternative, "Pennsylvania's Alternative Residential Energy Provisions" issued February 2003 by the PHRC.

The Department closely reviewed the documents and testimony provided on this issue and obtained additional information. The Department continues to believe that this alternative approach would provide greater overall energy savings by fostering greater compliance with a simplified approach. Local governments, code officials and the PBA also support this approach.

The United States Department of Energy's Pacific Northwest National Laboratory (Pacific Northwest) reviewed the PHRC's alternative approach and concluded that the alternative contains energy efficiency requirements which are slightly more stringent for some residential designs and slightly less stringent for other designs. However, Pacific Northwest also acknowledged that the alternative was considerably simpler to use and would most likely foster greater compliance with the UCC's energy conservation requirements. In another study, Pacific Northwest reviewed homes that would use more energy because of increased window glazing. Pacific Northwest concluded that "increases in energy use expected from homes having more glazed area are, in fact, non-existent or negligible *compared to the benefits of increased compliance.*" (Emphasis added.) ("Eliminating Window-Area Restrictions in the IECC--October 2001.")

The Department also reviewed other states and their experiences with energy compliance. The states that have shown less flexibility with alternative approaches have experienced difficulties. In Massachusetts, a study indicated that only 46.4% of new homes complied with the thermal requirements of that state's residential code. Prescriptive packages were almost never used--only 2% of the homes surveyed used these standards. Additional prescriptive approaches were recommended for use in Massachusetts. ("Impact Analysis of the Massachusetts Residential Energy Code Revisions"--May 14, 2001.)

IRRC requested that the Department explain its jurisdiction to require compliance with Department of Health (Health) regulations and the Health Care Facilities Act (35 P. S. §§ 448.101--448.904b). IRRC also stated that if the Department requires compliance with Health's regulations and the Health Care Facilities Act, the final-form rulemaking must contain procedures for coordinating this compliance with Health. After consulting with Health, the Department revised § 403.22 (relating to health care facilities) to clarify its jurisdiction, and the plan approval and inspection process. The Department modified § 403.22(a) to include references to sections 104(d)(3) and 105(d)(1) of the act which require compliance with Health's regulations and the Health Care Facilities Act. The Department also modified § 403.22(d) to require that construction plans must be submitted to Health and receive its approval before construction begins. Also, a building permit applicant must obtain approval from Health before occupying a new health care facility. The Department added § 403.22(f) and (g), which prohibit a building code official from approving plans and issuing a certificate of occupancy for a health care facility until Health approved the plans and occupancy.

The House Labor Relations Committee inquired and the HAP and numerous other health care facilities commented that the proposed rulemaking would create administrative confusion and a regulatory burden for health care facilities. The HAP and the other commentators strongly urged the Department to delegate all plan review responsibilities to Health. The Department may delegate its authority to delegate its plan review and inspections to the Health. However, there is no statutory authority for the Department to delegate municipality authority under the

UCC to Health. Municipalities that enforce the UCC may not delegate these activities to Health under the act. See section 105(d)(2) of the act. Furthermore, Health does not currently have the resources, particularly certified code officials, to accept this delegation.

IRRC and over 20 commentators stated that proposed § 403.23 was inconsistent with IBC requirements and existing Department of Public Welfare (DPW) regulations. IRRC questioned how this rulemaking would be reconciled with DPW regulations and whether the Department addressed these conflicts with DPW. The act saved certain provisions in the Fire and Panic Act for small, in-home, day care facilities (section 1101 of the act (35 P. S. § 7210.1101)). There are a number of conflicts between these saved requirements and the standards established in the IBC. To resolve conflicts regarding the age, numbers of children and fire-safety requirements, the language in the proposed rulemaking was changed. The final-form rulemaking specifies that in-home day care facilities with 4--6 children and 7--12 children of any age shall meet current fire safety and DPW licensure requirements and that all other child day care facilities must meet requirements spelled out for those occupancies in the IBC. Department representatives addressed these issues and reviewed revised language with DPW staff.

The Department deleted the phrase "excluded from the Uniform Construction Code" from the first sentence of § 403.24(3) (relating to historic buildings, structures and sites) because it was unnecessary and redundant. The Department also added language to this section that will prohibit a building code official from waiving UCC accessibility requirements for historic buildings, structures and sites. Only the UAAB and the Department can review and grant accessibility variances. This language was added in response to comments from the House Labor Relations Committee, the UAAB and other accessibility advocates. Additional language was also added to incorporate provisions from section 902 of the act concerning historical buildings, structures or sites.

IRRC commented that § 403.25(a)(iii) and (iv) (relating to manufactured and industrialized housing) use the term "occupancy" to trigger UCC applicability and that the Department should clarify whether this term means ownership or classification of occupancy. The term indicates classification of "use and occupancy." The Department clarified this by adding a definition of "occupancy" in § 401.1, which regards an "approved use of a building or structure" under the UCC.

Pennsylvania Manufactured Housing Association and the Modular Building Systems Association contend that the act does not give the Department authority to regulate the manufactured or industrialized housing under section 901(a) of the act. These two associations also furnished comments on this section. However, this exemption only applies to manufactured and industrialized housing units. Section 901(a) of the act does not exempt site placement, installation of manufactured housing, foundations, utility connections and related activities. The Legislature intended that uniform standards apply to construction throughout this

Commonwealth in the act. See section 102 of the act. This final-form rulemaking will allow inspection of placement and related activities for all manufactured and industrialized housing that currently does not exist. The UCC will cover these activities. Appendix E of the IRC, adopted in § 403.21(a)(9), will also provide coverage for placement of manufactured housing.

The Department's interpretation is consistent with the Manufactured Housing and Safety Standards Act (35 P. S. §§ 1656.1--1656.9) and related regulations and the Industrialized Housing Act (35 P. S. §§ 1651.1--1656.12). These authorities provide Department of Community and Economic Development (DCED) jurisdiction over the manufactured housing and industrialized housing units. DCED will retain jurisdiction to enforce standards and resolve complaints relating to the units. Moreover, the act supersedes DCED's regulations if there is a conflict between the act and the final-form rulemaking.

The enumerated "exclusions" under section 104(a) of the act constitute construction that was never intended for act coverage. These "exclusions" do not include manufactured or industrialized housing. An "exemption" for manufactured and industrialized housing, under section 901(a) of the act, constitutes construction that was originally intended for coverage and later legislatively exempted. An "exemption" is given less authority than an "exclusion" and an "exemption" is strictly construed against the person claiming it. This final-form rulemaking also comports with section 605(b) of the National Manufactured Home Construction and Safety Standards Act (42 U.S.C.A. § 5404) requiring Federal standards for installation by December 2005.

However, the Department clarified the reference to "installation" in § 403.25(b)(2) based upon conversations with IRRRC. The Department does not intend to have jurisdiction over assembly of the components of the industrialized housing units.

The PSATS (representing 1,457 townships) and the Pennsylvania State Association of Boroughs (representing 961 borough communities) requested UCC coverage of placement, siting, foundations and related activities for manufactured and industrialized housing. These standards will provide uniform coverage of these activities, greater consumer protection and inspection of the installation of this type of construction that does not exist throughout this Commonwealth.

DCED and other parties alerted the Department after the public comment period that the proposed rulemaking did not contain standards for swimming pools. Section 104(f) of the act requires standards for pools and spas. Section 403.26 was added to address swimming pools and hot tubs. The Department adopted Appendix G of the IRC in § 403.21(a)(14). For public pools, hot tubs and spas, the final-form rulemaking will require compliance with ANSI/NSPI-1 1991, ANSI/NSPI-2 1999 and the Public Bathing Law (35 P. S. §§ 672--680d).

The Department renumbered proposed § 403.26 as § 403.27 and renamed it "applicability and use of standards" in the final-form rulemaking to more accurately reflect the contents of the section. The Department deleted § 403.26(a)(1), which enumerated that Chapter 1 of the IBC is not adopted as part of the UCC. Section 403.21(a)(1) already excludes Chapter 1. The Department further clarified the application of the IRC.

A number of commentators questioned whether proposed § 403.26(a)(1) (§ 403.27(a)(1) in the final-form rulemaking) and § 403.21(a)(1) prohibited local jurisdictions from adopting or modifying Chapter 1 of the IBC. Local municipalities may not generally adopt Chapter 1 of the IBC. Local jurisdictions may, under the act, adopt provisions of Chapter 1 which meet or exceed the UCC, including certain provisions of Chapter 1 and this final-form rulemaking (section 503(a) of the act (35 P. S. § 7210.503(a)). A municipality may enact ordinances which meet or exceed UCC requirements in specific areas listed in § 403.102(l) (relating to municipalities electing to enforce the Uniform Construction Code).

The Department received a comment concerning § 403.41 (relating to commercial construction) and numerous questions on whether a municipality electing to enforce the UCC must enforce both its commercial and residential provisions. A municipality electing to enforce the UCC must enforce both residential and commercial construction under section 501(a) and (e) of the act. Section 403.102(g) lists the ways a municipality may enforce the UCC. These include designating an employee to serve as a building code official; retaining third-party agencies; utilizing intermunicipal agreements; contracting with another municipality for services; and contracting with the Department for commercial building services. The Department will only contract with municipalities if it has the resources to perform the requested plan review and inspection work.

One commentator also questioned whether there was a requirement for fire protection permits in renumbered §§ 403.42 and 403.62. The regulation requires only a building permit. Fire protection is included in the IBC and the IRC final-form rulemaking requirements and will be part of the general building inspection process. Municipalities opting to enforce the UCC may adopt an ordinance which meets or exceeds UCC requirements and requires a fire protection permit and inspection.

IRRC commented that §§ 403.42 and 403.62 set forth comparable requirements for commercial and residential construction but are formatted differently. The Department rewrote § 403.62 to follow the organization of § 403.42.

Sections 403.42 and 403.62 generated many comments and much confusion. For clarity, the Department divided each of these sections into two sections. Sections 403.42 and 403.62 contain the heading and address the subject of "permit requirements and exemptions" for commercial and residential construction, respectively. Section 403.42a and § 403.62a (relating to permit application) have

the heading and address the subject of "permit application." The application process and format are contained in §§ 403.42a and 403.62a.

IRRC and seven commentators questioned the requirement in §§ 403.42(b) and 403.62(b) concerning the use of a DCED permit application form. The Department eliminated this requirement. IRRC suggested that the Department list the information to be included on a building permit application. The Department modified §§ 403.42a(h) and 403.62a(e) to specify the information required on the permit application which will include a site plan indicating the size and location of structures and their distance from lot lines. If construction involves demolition, the site plan will specify the construction that will be demolished or left intact.

Three commentators questioned the building permit exemption language for retaining walls in §§ 403.42(c)(1)(iii) and 403.62(c)(1)(ii). The language did not require a building permit for retaining walls that were not over 4 feet in height measured from the "bottom of the footing." The commentators suggested that this required building permits for all retaining walls since the footings for retaining walls are generally 3 feet below grade. The Department changed these exemptions to read "4 feet in height measured from the lowest level of grade" in §§ 403.42(c)(1)(iii) and 403.62(c)(1)(ii).

At the suggestion of many commentators and as mandated by section 304(a) of the act, the Department is adopting the new 2003 editions of the ICC codes. There were several minor changes relating to permit exemptions in Chapter 1 of the 2003 IBC. These changes are reflected in § 403.42(c)(1)(xi).

Code officials presented information that permits should not be required for window replacement without structural change. The Department added this exemption to § 403.42(c)(1)(xiii).

The Pennsylvania Municipal Authorities Association commented that §§ 403.42(e) and 403.62(e) should be amended to insure that public water and sewer authorities are included in exemptions enumerated in these sections. To address this concern, the Department changed the language of §§ 403.42(e) and 403.62(e) to delete the word "service" from public service utilities. The Department also referenced the definition of "public utility" in 66 Pa.C.S. § 102 (relating to definitions).

IRRC commented that the Department should identify, in § 403.42(f), the documents that should be attached to the permit application. The new application sections, §§ 403.42a(b) and 403.62a(b), enumerate that construction documents must include plans and specifications.

The Department added § 403.42(f) at the AIA's request. This will allow for the issuance of annual permits to allow additional installations to already-approved

electrical, gas, mechanical or plumbing work. Section 403.42a(m) was also added to enumerate the application procedures for this permit.

IRRC commented that the Department should identify the official who may approve shop drawings before system installation. In reorganized § 403.42a(f)(3)(i), the building code official shall approve shop drawings. Based upon AIA comments, the Department clarified that shop drawings pertain to fire protection systems in § 403.42a(f).

IRRC and three commentators noted that § 403.42(n) requires the permit applicant to identify the individual who will observe construction. This person may be unknown at the time of the permit application. In reorganized § 403.42a(j), the Department requires the name of the licensed architect or engineer in responsible charge. It also requires the permit applicant to notify the building code official if another architect or engineer assumes responsible charge. Newly numbered § 403.42a(k) provides additional clarification that an applicant shall specify who will perform structural observation and inspection if sections 1704 or 1709 of the IBC requires structural observations or special inspections. Additionally, language pertaining to an architect or engineer being in "responsible charge" in § 403.42a(j) was used, at the AIA's request, to reflect the actual use of the term in these professions.

Section 403.42(k) of the proposed rulemaking required that the manufacturer's installation instructions related to exterior wall envelopes and testing details be included with the submission of construction documents. One commentator indicated that the specific manufacturer or product is not normally known during the construction planning. The Department deleted that requirement from the final-form rulemaking.

At the AIA's request, the Department modified provisions relating to the waiver of document submission. Section 403.42a(l) now allows for the waiver of site plan submission except for accessibility requirements. Documents that have to be prepared by a licensed architect or professional engineer may not be waived.

IRRC commented that § 403.43(c) (relating to grant, denial and effect of permits) requires a building code official to mark any necessary changes for UCC compliance on the construction documents. This may place the building code official in jeopardy of violating professional licensing laws for architects and engineers. The Department modified this requirement in the final-form rulemaking to require that only nondesign changes be marked by the building code official. The Department also changed this subsection and added § 403.63(c) (relating to grant, denial and effect of permits) to require that a building code official's approval must be marked on each page of the set of plans reviewed. The Department made this change following consultations with New Jersey state building code officials.

The UAAB commented that this section did not clearly indicate that only the Department could grant extensions of time variances or appeals relating to accessibility requirements. The Department added § 403.43(j) to restrict this authority to the Secretary.

One commentator was confused by the references to extensions of time in § 403.43(g) and (i). The building code official may grant extensions of time to commence construction after the building permit is issued. Only the Board of Appeals may grant extensions of time, appeals and variances on building code officials' orders to correct or violation orders. In response to the AIA's request, the Department also added § 403.43(k) to allow deferred submission of construction documents for portions of the construction.

To reflect the Department's practice of requiring the submission of revised plans for changes made during construction, the Department added this requirement in §§ 403.43(l) and 403.63(j). The final-form rulemaking already contained a fee for revisions of approved plans in § 401.2(b)(3).

Section 403.44(a) allows the use of alternative materials and equipment which are evaluated and approved by the National Evaluation Services, Inc. (NES) as meeting the UCC. IRRC, the AIA and three other commentators noted that there are other approved laboratories and quality assurance agencies which evaluate materials and equipment. Since the proposed rulemaking was published, ICC Evaluation Service, Inc. became the successor to the NES. The Department rewrote this section to expand the alternative methods and materials which may be utilized and which will meet UCC requirements. The Department also changed the section heading to "alternative construction materials and methods" because this is a more accurate description of this section's contents. The Department also added the "International Performance Code 2003" as an alternative means of compliance with the UCC.

IRRC commented that § 403.45(c) (relating to inspections) should be changed to allow construction code official inspection "only" during normal business hours. The Department made the revision that an inspection should occur during normal hours at the construction site. The Department also added language that would permit inspection at a time requested or agreed to by the permit holder. However, inspections could occur at different times if required under § 403.86 (relating to right of entry to inspect). At the AIA's request, the Department added language in subsection (c) that requires construction work to remain accessible and exposed for inspection.

IRRC and one commentator commented that the reference to a "general building" inspection in § 403.45(e)(1) was vague and needed clarity. The Department added references to the inspector certification categories for the different inspections listed in § 403.45(e)(1)--(7), which describe the inspections with more clarity. It also deleted the reference to elevator inspections that are governed in Chapter 405.

IRRC and one commentator commented that § 403.46(b) (relating to certificate of occupancy) does not include a time frame for the code official to issue the certificate of occupancy after receiving the final inspection report. The Department modified this subsection to require the certificate to be issued within 5 business days after the receipt of the final inspection report. The Department also added the requirement that the certificate of occupancy include the permit holder's name and address.

IRRC and 12 commentators questioned the requirements for public utility connections in § 403.47 (relating to public utility connections) and § 403.66 (formerly § 403.65) (relating to public utility connections). The Department completely rewrote these sections after discussing this issue with municipal code officials and public utility companies. Both sections are identical. Subsection (a) allows a building code official to authorize temporary connection of a utility so that construction may be completed and to reflect current practice in many municipalities and Chapter 1 of the IBC and the IRC. Subsection (b) requires the permit holder to provide written proof to the utility company that the building or structure has passed UCC inspections before electricity or gas may be connected to the completed construction. This requirement is based on current practice by many utilities.

IRRC also questioned whether the public utility requirements are affected if a municipality "opts out" of enforcement. In those municipalities, all third-party agencies are required to have a building code official who may authorize temporary utility connection under § 403.66(a).

Three commentators stated that the permit and inspection process for residential buildings in §§ 403.61--403.66 do not require plan submission or review. The Department added § 403.62a(b) requiring the submission of plans and specifications with the permit application. This requirement will also pertain to commercial construction in § 403.42a(b). The Department added § 403.62a(c) to allow a building code official to waive the submission of construction documents if the nature of the construction does not require review of plans to determine compliance with the UCC. The Department also added § 403.62a(e), which requires the application to include a site plan except if the building code official waives this requirement.

Another commentator stated that typical residential home construction and remodeling do not include plans prepared by a registered design professional. This final-form rulemaking does not impose this requirement because Pennsylvania licensure laws do not require a licensed architect or engineer to seal plans for one- or two-family dwellings.

The House Labor Relations Committee, IRRC and a number of commentators requested that the permit application and approval process for commercial and

residential construction be as similar as possible. The Department revised and drafted §§ 403.41--403.43 and 403.61--403.63 to address this request.

The House Labor Relations and Local Government Committees, other legislators and the PSATS expressed concern about the impact of the final-form rulemaking on citizens making minor repairs to their residences. In response, the Department significantly revised § 403.62 to exempt numerous home repairs from permit requirements. Exempted repairs now include minor electrical work such as installation of dimmer switches and replacement of receptacles, switches and light fixtures. Exemptions will also cover, for example, construction of decks lower than 30 inches above grade, repair or replacement of a porch, replacement of siding, repair and replacement of appliances and ordinary repairs. The Department also excluded ordinary repairs from the permit requirement.

In revising § 403.62, the Department utilized New Jersey's construction code, section 5:23-9.3, as a guide. The Department considered establishing a monetary threshold for this exemption. However, this threshold could not be reasonably enforced because of the practical difficulties of determining the costs of a project and because a large project could be divided into phases to circumvent the final-form rulemaking. A monetary threshold could also require permits for work that is actually exempted under the Department's revised § 403.62. Moreover, a monetary threshold could exempt permits for work that should be reviewed and inspected such as construction that changes the structure or negatively impacts safety. A monetary limit would also require permits for construction that could reasonably be excluded such as deck construction. This option and leaving this decision to each municipality would also undermine the intent of having a uniform code.

The Department also considered residential exemptions based upon whether the construction involves the replacement of a nonstructural component or part with another component or part of equal type, size or specification. Exclusion based upon these criteria would cause confusion and enforcement difficulties. This type of exclusion would also be more restrictive, in many ways, than the Department's proposal. For example, construction of new decks and fences would require a permit under the amendment while the Department's proposal would exempt construction of certain new decks and fences. Additionally, construction and repairs that should be regulated for safety reasons (for example, water heaters and roofing) will be unregulated.

Based upon comments, the Department made revisions allowing emergency repairs without first obtaining a permit if application is made within 3 days of the repair or replacement (§§ 403.42(b) and 403.62(b)). The Department also added exclusions for "ordinary repairs" in subsection (d).

IRRC suggested that the Department use the term "permit" rather than "building permit" in § 403.64(a) and (g) (relating to inspections) (former § 403.63(a) and (g)) for clarity. The Department made this change.

IRRC and four commentators questioned why the lists of inspections required under § 403.64(d) and (f) (former § 403.63(d) and (f)) are different. These inspection provisions reflect section 501(e) of the act. The inspection requirements during construction differ from those that are required as part of the final inspection. However, this difference may be confusing. The Department rewrote subsection (f) to reference a final inspection and compliance with the UCC without enumerating specific inspections. IRRC also questioned the meaning of the term "general building information" in § 403.64(f) (former § 403.63(f)). The term "general building information" was deleted with the other enumerated building inspections.

IRRC also suggested that the Department add examples of the "other inspection" that a municipality may require to ascertain compliance with the UCC in § 403.64(e) (former § 403.63(e)). Examples or a list of possible inspections may limit the municipality's inspection authority. The type of additional inspections a municipality would perform would be based on unique construction circumstances or municipal code enforcement procedures.

Three commentators recommended that the Department eliminate the requirement in § 403.64(h) (formerly § 403.63(h)) that the municipality send a copy of the final inspection report to the lender because the lender may be unknown or because the municipality should not become involved in the business relationship between the lender and owner. The Department deleted this section.

The Department renumbered the remaining sections in this subchapter. IRRC commented that the final-form rulemaking should include a time frame in which the code official must issue the certificate of occupancy after receiving the final inspection report. The Department modified § 403.65(b) (relating to certificate of occupancy) to require the certificate to be issued within 5 business days after the receipt of the final inspection report.

The Department received numerous comments on the use of the term "structure" throughout the final-form rulemaking. The Department deleted this term from § 403.65 (former § 403.64). However, the ICC codes utilize this term. The Department accordingly placed a definition of "structure" in § 401.1.

The AIA objected to the provision in § 403.81(a) (relating to stop work order) that a building code official could issue a stop work order if the construction could interfere with an inspection. The Department deleted this provision because it also mandated that construction remain accessible and exposed for inspection in § 403.45(c). A building code official may issue a written stop order, nonetheless, if the construction violates the UCC or is being performed in a dangerous and unsafe manner.

The AIA requested that the Department add language to § 403.84 (relating to unsafe building, structure or equipment) indicating that a vacant building or

structure is unsafe if it is not secure against entry. The Department agrees with this recommendation and revised § 403.84(a) to incorporate this recommendation.

IRRC and one commentator questioned the necessity of keeping building records for the life of the building if the building is substantially renovated under § 403.85(a) (relating to release, retention and sharing of commercial construction records). It is absolutely necessary to keep building plans and records for as long as the building is in existence. Even if the building is substantially renovated, existing structure or foundation and framework is not changed. The Department currently keeps building records for all commercial buildings for their entire existence. These records are used daily for violation determinations, fire and accident inspections and countless other reasons.

IRRC and other commentators also questioned public access to building records under § 403.85. The act of June 21, 1957 (P. L. 390, No. 212) known as the Right-to-Know Law (65 P. S. §§ 66.1--66.9) controls public access to these documents. The Department added § 403.85(e) and (f) to authorize release of records to the public under the Right-to-Know Law and to reflect public safety concerns. Consistent with the Right-to-Know Law, the Department, a municipality and a third-party agency acting on behalf of a municipality may prohibit the release of applications received, building plans and specifications, inspection reports and similar documents. These documents should be released to the building owner of record, the permit holder, the design professional of record or a third-party authorized by the building owner in writing to receive the documents upon presentation of valid identification. The Department, the Department of General Services, law enforcement or emergency response agencies and Federal, State or local health agencies may also have access to these records.

IRRC commented that § 403.86(a) allows a code official to enter a building at "reasonable times." IRRC requested that the Department replace this phrase with "normal business hours." The Department made this revision and added the phrase "or at times agreed to by the owner."

IRRC and the PBA indicated that the rulemaking does not address how and when the UCC takes effect in municipalities, especially the municipalities that do not inform the Department whether they will enforce the UCC. The PBA requested that the Department mandate that the UCC take effect within 90 days of publication. According to the PBA, this approach would avoid legal liability for builders because there would be no question on the date that the UCC took effect and no builder would be at a competitive disadvantage. See section 1103 of the act (35 P. S. § 7210.1103). However, this approach does not reflect the different dates that would be in place for municipalities that choose to enforce the UCC. Also, a municipality has to provide notice to the Department of UCC enforcement and that municipalities may not be ready to enact the UCC within 90 days and provide notice to builders of enforcement. See section 501(a)(2) of the act.

Section 403.101 (relating to effective date) was added to clearly specify the UCC's effective date. It provides that the UCC will take effect when: (1) a municipality enacts an ordinance adopting the UCC and provides notification to the Department within 210 days of publication; (2) 210 days elapses from the date of publication and the municipality provides no notification; or (3) a municipality elects not to enforce the UCC and provides notification within 210 days of publication. Based on comments received by a member of the UAAB, § 403.101 now clearly specifies that the Universal Accessibility Act will remain in force until the UCC takes effect to ensure that there will be continued compliance with accessibility standards.

With the addition of § 403.101, the Department renumbered proposed §§ 403.101--403.103. IRRC also instructed the Department to correct the cross reference of § 401.3 (relating to certification required) in § 403.102(h) (former § 403.101(i)). The Department made this correction and this cross reference is made to § 403.2a. The Department also moved the subject matter in § 403.102(c) (former § 403.101(c)) to § 403.101.

IRRC questioned how the Department would notify municipalities which submit ordinances that equal or exceed UCC requirements for Department review of the Department's determination. See section 503(f) and (i) of the act. The Department added § 403.102(j) to address this concern. The Department will notify the municipality in writing of its determination under section 503(b) of the act.

The PBA recommended that the Department expand the rulemaking to detail the process for written challenges to municipal ordinances. The act provides the process for challenging an ordinance. The Department added § 403.102(k) to notify aggrieved parties of the statutory provisions and procedure for challenging a municipal ordinance. Section 403.102(k)(1) references the statutory provisions for a written challenge (see section 503(j) of the act) and § 403.102(k)(2) references the act's requirements for the Department's ruling on these challenges (see section 503(k) of the act).

The PBA and the American Forest and Paper Association suggested that the Department post all filed municipal ordinances, in their entirety, on its website. The Department will post summary information about proposed ordinances on its website. All ordinances, in their entirety, will be available for public inspection. The Department does not have the staff and resources to post and maintain entire ordinances accurately and timely on its website.

Under § 403.102(l) of the final-form rulemaking, a municipality may enact an ordinance that meets or exceeds §§ 403.42a(a)--(e) and (g)--(n) and 403.62(a)--(e).

IRRC questioned former § 403.101(l), which allows a municipality to require additional information on an addendum to an application. The Department deleted

this requirement because it also removed the requirement that all permit applicants utilize an application form developed by DCED.

IRRC and numerous third-party agencies questioned why the Department did not state that municipalities opting not to enforce the UCC shall provide written notice to applicants for commercial building permits that they may obtain the services of a third-party agency in § 403.103(g) (former § 403.102(f)) (relating to municipalities electing not to enforce the Uniform Construction Code). The final-form rulemaking requires municipalities to notify these applicants that they must maintain the services of the Department. Section 501(e)(2) of the act allows a third-party agency under contract to the Department to conduct plan review and inspections in municipalities that "opt out" of enforcement. The Department is responsible for ultimately paying and assigning third-party agencies under contract. Accordingly, applicants should contact the Department directly so that it may appropriately govern these activities.

Because of comments and issuance of a new model code, compliance with the "International Performance Code" may be accepted as an alternative to UCC compliance in § 403.103(c). Based upon the PSATS comment and in accordance with section 501(e)(3) of the act, § 403.103(f) now reflects that a third-party agency does not have to provide a copy of the final inspection report to a municipality that does not enforce the UCC. Additionally, § 403.103(g)(5) was added to ensure that applicants for Department review of commercial construction in municipalities that "opt out" will have to provide the Department with information on the proposed occupancy or use of the building or structure.

IRRC and the UAAB suggested that the Department add language to § 403.104(a) (former § 403.103(a)) (relating to Department review) concerning the corrective action it can take after an investigation of complaints concerning municipal enforcement and administration of the UCC. The Department added subsection (c), which states that the Department may initiate an action in Commonwealth Court, initiate decertification proceedings against code administrators and initiate prosecutions. See section 903 of the act (35 P. S. § 7210.903) and sections 105 and 701 of the act.

IRRC asked what action would cause the Department to review a municipal enforcement program more than once in a 5-year period under § 403.104(b) (former § 403.103(b)). A written complaint would cause the Department to initiate a review at any time. The UAAB suggested lowering the review period to 3 years. The Department does not have the resources to perform any type of meaningful review more frequently without sacrificing other UCC enforcement. Additionally, the Department did not utilize the comment that violations of the accessibility provisions lead to mandatory prosecutions. The Department has discretion to enforce and prosecute, when appropriate, violations concerning accessibility. Mandating prosecution for every violation is not cost-effective, will unduly penalize individuals who attempt to comply with the act and will detract from the

Department's preference for compliance and education over punishment. However, subsection (b) now specifies that the Department will review a municipal program regardless of the elapsed time if a complaint is received under section 105(a) of the act.

IRRC commented that the requirements for board of appeals members in § 403.121 (relating to board of appeals) were vague and suggested that the Department include more detailed information on qualifications. The qualifications for board of appeals members reflect Chapter 1 of the IBC in accordance with section 501(c) of the act. Overly stringent requirements may block effective code enforcement by unreasonably decreasing the availability of board members. However, this section was rewritten to provide for training and experience in construction, as a design professional, or as an inspector or plan reviewer. Additionally, a municipal code administrator may not serve on its board. The powers granted to the board of appeals under § 403.121(b) are consistent with section 501(c)(2) of the act.

One commentator stated that the phrase "governing body" in former § 403.121(c)(1) conflicts with the First Class City Charter and possibly other home rule municipality charters. The Department deleted § 403.121(c)(1) and included a provision in § 403.121(a) that the municipality appoints members to serve on a board of appeals.

IRRC questioned why § 403.122(a) requires the filing of appeals with the building code official rather than the board of appeals. The Department changed this section to read that appeals are to be filed with the board of appeals.

IRRC commented that in § 403.122(b) the use of the terms "postmark date" and "personal delivery" should be clarified. The Department added definitions for these terms in § 401.1.

IRRC questioned why "other appropriate relief" may be taken by the board of appeals in § 403.122(i)(4) because the phrase was unclear and suggested that the Department provide some examples of "other appropriate relief." The Department agreed that the term was unclear and deleted this provision.

Section 403.122(j) requires that a board of appeals will provide written notice of its decision to the owner, the owner's agent and the building code official. IRRC asked if the municipality would also receive written notice. Written notice will be provided to the building code as an employee or agent of the municipality.

Tom Wenner, an accessibility advocate, suggested that the language in § 403.141(b) (relating to enforcement by the Department) regarding the certified accessibility specialist be consistent with the language in § 403.102(o). The Department changed the last line of § 403.141(b) to refer to certified accessibility specialist as a "code administrator certified as an accessibility specialist."

The Department modified § 403.142(d)(5) to require that the Accessibility Advisory Board provide written notification of hearings at least 5 days prior to the hearing unless the owner waives this period. The Department made this revision because IRRC requested more specific requirements for a time period and the manner of notification.

The Department received a number of comments requesting that it regulate mine elevators, automated people movers, personnel hoists and material lifts. This would expand the Department's jurisdiction into areas regulated by other government entities. Automated people movers are rail devices and are not considered lifting devices that fall within the final-form rulemaking. The Federal government regulates mine elevators and personnel hoists. Accordingly, the Department is preempted from regulating these items. The Department has historically only regulated and inspected devices lifting individuals.

IRRC questioned the use of the terms "dwelling units" in § 405.1(b) (relating to scope). The Department also received many comments concerning elevator inspection in private dwellings. The Department reviewed § 405.1 and clarified the language in § 405.1(b)(3) to state that elevators in residential buildings accessible by the occupants of more than one dwelling unit are not excluded from the UCC. However, lifts in other private residences are excluded.

IRRC questioned the level of repair or renovation that would be required for existing elevators. The Department also received numerous comments on how the periodic testing and inspection requirements applied to existing elevators. To clarify the repair and renovation requirements and the applicability of the testing and inspection requirements of §§ 405.7--405.9 (relating to periodic inspections; periodic testing; and periodic dynamic testing) to existing elevators, the Department added language to § 405.1(c)(3). Specifically, an elevator owner may continue to operate an elevator in accordance with the code in existence at the time the elevator was installed if the owner complies with the testing and inspection requirements of §§ 405.7--405.9.

In § 405.2(a) (relating to standards), the Department adopted numerous National standards to govern elevators and lifting devices. All of these standards reference other standards. To clarify which of the standards referenced in the adopted standards apply under the UCC, the Department added language stating that the referenced standards are adopted to the extent that they are not excluded by § 405.2(b).

In § 405.2(a)(2), the Department updated the adopted "ASME B20.1" standard to the most current 2002 edition. In § 405.8(a), the Department updated its reference to "ASME A17.1-2000" by incorporating the 2002 addenda. In § 405.8(b), the Department updated its reference to "ASME A18.1-1999" by incorporating the 2001 addenda.

The Department received numerous comments on the testing schedules for hydraulic elevators. IRRC and PM Associates commented that test cycles for hydraulic elevators should be shorter and that the testing should be phased-in. The Department agrees with this comment. In § 405.8(a)(3), the Department reduced the inspection interval from 5 years to 3 years and phased-in the testing requirements over a 3-year period. Elevators installed before 1973 shall be tested in the first year. Elevators installed between 1973 and 1992 shall be tested in the second year. Elevators installed after 1992 shall be tested in the third year. Elevator owners may have these tests performed prior to the required phase-in year. For consistency with this section, the Department deleted § 405.2(d)(4) on testing intervals for hydraulic elevators.

The Department also added § 405.8(b) to require witnessing of each test required by § 405.8.

Upon review of the final-form rulemaking's testing requirements, the Department discovered that it did not specifically set forth the testing scheduled for vertical reciprocating conveyers. The Department added § 405.8(f) to require these devices with platform safety devices to be tested at 5-year intervals. The Department also discerned that the test documentation on elevator equipment was not specifically addressed. The Department added § 408.5(h), which requires elevator inspection companies to mark elevators which pass these tests with metal tags containing information on test performed, date and name of company performing the test. This will assist the owner by providing information for future tests, inspections and maintenance on the elevator at the elevator site.

IRRC and the Pennsylvania Ski Areas Association commented that the requirement in § 405.11(d) (relating to accident report) that a lifting device involved in an accident may not be returned to operation until the Department provides approval would create a serious problem for the ski industry. The Pennsylvania Ski Areas Association stated that most accidents occurring on ski lifts are not caused by a mechanical problem but by skiing accidents. In the proposed rulemaking, this section required ski areas to shut down ski lifts every time a skier falls when getting off the lift through no fault of the equipment. The Department agrees and modified § 405.11(d) to require the equipment to be shut down only in cases of fatal injury. The Department also added § 405.11(e), which requires elevators and lifting equipment involved in nonfatal accidents resulting from mechanical or electrical failure to be placed out of operation until the Department approves the equipment for service.

One commentator raised the concern that ski lift owners may not know when a skier injured by a lift is hospitalized. The commentator suggested amendment of this provision to provide direction regarding situations when an owner is not immediately aware that the injured party is hospitalized. This comment will not be implemented. The Department will accept notification from the ski lift owner within 24 hours of knowledge of the accident. Ski lift owners will not be penalized for not

reporting accidents resulting in hospitalization of the injured party, if they did not know of the hospitalization.

IRRC also questioned how the accident reports required in § 405.11(b) would be available to ski area owners and staff. These forms will be available on the Department's website and they will be available in paper format from the Department. The Department will accept notification by mail and fax.

IRRC commented that the term "initial inspection" used in § 405.12(w) (relating to lumber elevators) concerning full load testing for rated lifting capacity is unclear. In the elevator inspection industry, the term is understood as the first inspection on a new equipment installation. Only the Department performs initial inspections. This test would only be performed on new installations.

IRRC and Robert L. Seymour and Associates, Inc. requested that the Department clarify who approves landing door interlocks under § 405.35(b) (relating to landing doors). The Department modified this section to state that Department approval is required.

The Department rewrote § 405.36(c) (relating to lifting capacity) as new § 405.37 (relating to operating speed). The lifting capacity speed enumerated in § 405.36(c) is more correctly characterized as an operating speed and should be a stand-alone section that is not incorporated as part of lifting capacity.

Robert L. Seymour and Associates, Inc. questioned the emergency stop switch provisions in § 405.38 (relating to operating controls). The Department reorganized the provisions for emergency stop switches in § 405.38 for clarity.

In § 405.42 (relating to additional requirements), the Department clarified the gross weight calculation of moveable platforms in subsection (d) and the requirement for secondary disconnection device when motor or controller is not visible from mainline disconnect switch.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 14, 2002, the Department submitted a copy of the notice of proposed rulemaking, published at 32 Pa.B. 4127, to IRRC and the Chairpersons of the Senate Committee on Labor and Industry and the House Labor Relations Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 19, 2003, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 20, 2003, and approved the final-form rulemaking.

Contact Person

The contact person is Charles J. Sludden, Jr., Director, Bureau of Occupational and Industrial Safety, Department of Labor and Industry, Room 1613, Labor and Industry Building, 7th and Forster Streets, Harrisburg, PA 17120, csludden@state.pa.us.

Findings

The Department finds that:

- (1) Public notice of intention to promulgate administrative regulations amended by this order has been given under section 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the act.

Order

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

- (a) The regulations of the Department, 34 Pa. Code, are amended by amending §§ 401.1 and 401.2; and by adding §§ 401.2a, 403.1--403.3, 403.21--403.27, 403.41, 403.42, 403.42a, 403.43--403.48, 403.61, 403.62, 403.62a, 403.63--403.66, 403.81--403.86, 403.101--403.104, 403.121, 403.122, 403.141, 403.142, 405.1--405.12 and 405.31--405.42 to read as set forth in Annex A.
- (b) The Secretary of the Department shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to legality and form as required by law.
- (c) The Secretary of the Department 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 April 9, 2004.

STEPHEN M. SCHMERIN,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 33 Pa.B. 5994 (December 6, 2003).)

Fiscal Note: 12-60. (1) General Fund; (2) Implementing Year 2002-03 is \$0; (3) 1st Succeeding Year 2003-04 is \$1,500,000; 2nd Succeeding Year 2004-05 is \$22,000; 3rd Succeeding Year 2005-06 is \$7,000; 4th Succeeding Year 2006-07 is \$7,500; 5th Succeeding Year 2007-08 is \$10,000; (4) 2001-02 Program--\$9,100,000; 2000-01 Program--\$8,800,000; 1999-00 Program--\$8,400,000; (7) General Government Operations; (8) recommends adoption.

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:

ALI--The Automatic Lift Institute, Post Office Box 33116, Indialantic, Florida, 32903-3116.

ANSI--American National Standards Institute, 11 West 42nd Street, New York, New York 10036.

ASME--The American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016-5990.

Accessibility Advisory Board--The Department's Accessibility Advisory Board created under section 106 of the act (35 P. S. § 7210.106).

Accredited academic institution--A high school, technical or vocational school, private school licensed or registered with the Department of Education, junior college, community college or university.

Act--The Pennsylvania Construction Code Act (35 P. S. §§ 7210.101--7210.1103).

Board of appeals--A body established by a municipality or municipalities which are parties to an agreement for the joint administration and enforcement of the act to hear requests for variances or extensions of time, and appeals from code administrator decisions.

Building--A structure used or intended for supporting or sheltering any occupancy.

Building code official--A construction code official, or the building code official's designee, who manages, supervises and administers building code enforcement activities under § 401.7(a)(18) (relating to certification category specifications). Duties include, but are not limited to: management of building code enforcement activities; supervision of building inspectors or plan examiners; authorizing issuance of certificates of occupancy; issuance of building permits, violation notices and orders to vacate; and the initiation of prosecutions.

Certificate of occupancy--A certificate issued by a building code official allowing occupancy of a building or structure under the Uniform Construction Code.

Certified building official--A classification administered by the International Code Council or its predecessor organization.

Chapter 11--Chapter 11 of the International Building Code relating to accessibility requirements adopted as part of the Uniform Construction Code.

Code administrator--A municipal code official, construction code official or third-party agency certified with the Department under the act or the Department under section 103 of the act (35 P. S. § 7210.103). The term includes an individual certified in a category established under this chapter to perform plan review of construction documents or administer and enforce codes and regulations in that category under the act or related acts.

Commercial construction--A building, structure or facility that is not a residential building.

Construction code official--An individual certified by the Department in an appropriate category established under section 701(b) of the act (35 P. S. § 7210.701(b)) to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations in that category under the act or related acts under section 103 of the act.

Conveyor--A horizontal, inclined or vertical device for moving or transporting bulk material, packages or objects in a path predetermined by the design of the device and having points of loading and discharge, fixed or selected, and related equipment and devices described in and governed by the ASME standards adopted in this chapter.

Current code administrator--An individual who performed plan review of construction documents, inspections of one-family or two-family residential property or other buildings, structures and equipment or administered and enforced a construction code program, and who was employed by or under contract with the Commonwealth or a municipality prior to the effective date of adoption of the final-form regulations for the Uniform Construction Code. The term includes an individual who performed these duties as an employee, contractor or agent of a person employed by or under contract with the Commonwealth or a municipality of this Commonwealth prior to April 9, 2004.

Department--The Department of Labor and Industry of the Commonwealth.

Elevator--Hoisting and lowering devices governed by ASME standards adopted by the Department under the Uniform Construction Code and other lifting devices subject to the requirements of the Uniform Construction Code.

Facility--All or any portion of buildings, structures, site improvements, elements and pedestrian or vehicular routes located on sites where the buildings or structures are located.

Filing date--The date that the Department or building code official receives the completed permit application.

Fire and Panic Act--The act of April 27, 1927 (P. L. 465, No. 299) (35 P. S. §§ 1221--1235), known as the Fire and Panic Act.

Health care facility--A facility licensed under the Health Care Facilities Act.

Health Care Facilities Act--The Health Care Facilities Act (35 P. S. §§ 448.101--448.904b).

ICC--International Code Council, 5203 Leesburg Pike, Suite 708, Falls Church, Virginia 22041-3401.

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

ICC Evaluation Services, Inc.--The ICC Evaluation Services, Inc., 5360 Workman Mill Road, Whittier, California 90601.

ISO--The International Organization for Standardization, 1, Rue de Varembé, Case Postale 56 CH 1211, Geneva 20, Switzerland.

Industrial Board--The Department's Industrial Board established under sections 445 and 2214 of The Administrative Code of 1929 (71 P. S. §§ 155 and 574), which hears requests for variances and extensions of time and appeals of decisions of the Department under the Uniform Construction Code.

Industrialized housing--Under section 3 of the Industrialized Housing Act (35 P. S. § 1651.3), a structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation, or assembly and installation, on the building site. The term does not include housing units defined as mobile homes.

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

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

International Existing Building Code--The "International Existing Building Code for Buildings and Facilities 2003 (First Printing) issued by the International Code Council. The term includes all errata issued by the ICC.

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

International Mechanical Code--The "International Mechanical Code 2003" (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" (First Printing) issued by the ICC. The term includes all errata issued by **the ICC**.

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

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

Legally occupied--Use or habitation of a building or facility that was occupied in accordance with all valid construction statutes and ordinances in effect before April 9, 2004.

Manufactured housing--Under section 901(a) of the act (35 P. S. § 7210.901(a)), housing which bears a label as required by and referenced in the Manufactured Housing Act (35 P. S. §§ 1656.1--1656.9), certifying that it conforms to Federal construction and safety standards adopted under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.A. §§ 5401--5426).

NSPI--National Spa & Pool Institute, 2111 Eisenhower Avenue, Alexandria, Virginia 22314.

Occupancy--Approved use of a building or a structure under the Uniform Construction Code.

PHRC--The Pennsylvania Housing Research Center, 219 Sackett Building, University Park, Pennsylvania 16802.

Passenger ropeway--An aerial tramway, aerial lift, surface lift, tow, conveyor or other lifting device which carries, pulls or pushes passengers along a level or inclined path by means of a haul rope or other flexible element which is driven by a power unit remaining essentially at a single location.

Pennsylvania's alternative residential energy provisions--The "Pennsylvania Alternative Residential Energy Provisions" issued February 2003 by the PHRC.

Permit--A document issued by a building code official authorizing the construction, alteration, repair, demolition, location, maintenance or installation relating to a building, structure, elevator or equipment under the Uniform Construction Code.

Person--Includes a corporation, partnership, business trust, other association, estate, trust, foundation or natural person. The term also includes the governing authority for a county or municipality, and a government entity other than the Commonwealth.

Personal delivery--The date that the appeal or request for a variance or extension of time under §§ 403.122 and 403.142 (relating to appeals, variances and extensions of time; and Accessibility Advisory Board) was delivered to a common carrier, or was received by facsimile transmission or hand-delivery at the office of the building code official.

Postmark--The date of the official United States Postal Service postmark on the envelope containing an appeal or request for variance or extension of time under §§ 403.122 and 403.142 or the date of a private postage meter mark on the envelope containing the appeal or request.

Repair--Reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

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

Secretary--The Secretary of the Department.

State-owned building--A building owned by or to be constructed for Commonwealth entities consisting of the General Assembly, the Unified Judicial System, the Pennsylvania Higher Education Assistance Agency, an executive agency, independent agency, and a State-affiliated entity or State-related institution as defined in 62 Pa.C.S. § 103 (relating to definitions).

Structure--A combination of materials that are built or constructed with a permanent location or attached to something that has a permanent location.

Third-party agency--A person, firm or corporation certified by the Department as a construction code official and contracted to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations under the act.

Uniform Construction Code--This chapter; "The International Building Code First Edition 2003" and the "International Residential Code for One- and Two-Family Dwellings 2003," 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).

Variance--A modification of a Uniform Construction Code standard approved by a board of appeals or the Industrial Board and by the Secretary for accessibility requirements.

§ 401.2. Department fees.

(a) The following fees apply to the certification of code officials. The Department will charge one fee per certification application. An individual may apply for certification for multiple categories on a single application form. Fees are nonrefundable.

(1) Initial certification and registration--\$50.

(2) Certification renewal--\$50.

(3) Third-party agency certification and renewal--\$250.

(4) Identification card replacement--\$10.

(b) The following fees shall apply to the Department's issuance of a permit for the construction, alteration or demolition of a building or structure:

(1) New construction

(i) New buildings and additions \$100 plus 20¢ per square foot of floor area or each fraction of floor area.

(ii) New structures and facilities other than buildings \$300

(2) Alterations, renovations or modifications of existing buildings or structures \$100 plus \$20 for each \$1,000 of estimated cost of alterations, renovations or modification certified by the permit applicant

(3) Revisions of approved plans and accelerated approval \$300

(4) Department accessibility plan review and inspection under § 403.141(b) (relating to enforcement by the Department) \$200

(5) Building or structure demolition \$100

(6) Annual permit \$100

(c) The following fees apply to 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

(7) Escalator and moving walk \$300

(8) Wheelchair lift and inclined stairway chairlift	\$150
(9) Orchestra lift, belt manlift, stage lift, organ lift and other lifting devices	\$300
(10) Permit for major repair	\$200
(11) Reinspection following failed major repair inspection (per inspection)	\$100 paid before reinspection
(12) Reinspection following failed acceptance inspection (to a maximum of \$300 per inspection)	50% of initial permit fee paid before reinspection
(13) 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	\$ 75
(2) Electric elevator with 11 to 20 openings	\$100
(3) Electric elevator with more than 20 openings	\$125
(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
(9) Wheelchair lift and inclined stairway chairlift	\$ 75
(10) Escalator and moving walk	\$ 50
(11) 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	\$ 85

reciprocating conveyer

- (6) Escalator and moving walk \$ 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
- (2) Duplicate \$ 25

(h) The following fees shall apply to a variance request:

- (1) Industrial Board variance request appeal or extension of time \$100
- (2) Accessibility Advisory Board variance request application \$100

§ 401.2a. Municipal and third-party agency fees.

(a) A municipality or third-party agency that enforces the Uniform Construction Code may establish fees for its administration and enforcement and time periods for payment of the fees. The municipality or third-party agency may establish a required time period for payment of the fees and fees for plan review, inspections and other activities related to the Uniform Construction Code.

(b) The building code official for the municipality and a third-party agency shall make the fee schedule available to the public.

(c) A municipality or third-party agency may establish a fee refund policy.

(d) A municipality or third-party agency may withhold issuance of a certificate or permit until a required fee is paid.

(e) A municipality may establish other fees authorized by law.

CHAPTER 403. ADMINISTRATION

GENERALLY

Sec.

- 403.1. Scope.
- 403.2. Other statutes or ordinances.
- 403.3. Building code official delegation.

STANDARDS

- 403.21. Uniform Construction Code.
- 403.22. Health care facilities.
- 403.23. Child day care facilities.
- 403.24. Historic buildings, structures and sites.
- 403.25. Manufactured and industrialized housing.
- 403.26. Swimming pools.
- 403.27. Applicability and use of standards.

PERMIT AND INSPECTION PROCESS FOR COMMERCIAL CONSTRUCTION

- 403.41. Commercial construction.
- 403.42. Permit requirements and exemptions.
- 403.42a. Permit application.
- 403.43. Grant, denial and effect of permits.
- 403.44. Alternative construction materials and methods.
- 403.45. Inspections.
- 403.46. Certificate of occupancy.
- 403.47. Public utility connections.
- 403.48. Boilers.

PERMIT AND INSPECTION PROCESS FOR RESIDENTIAL BUILDINGS

- 403.61. Residential buildings.
- 403.62. Permit requirements and exemptions.
- 403.62a. Permit application.
- 403.63. Grant, denial and effect of permits.
- 403.64. Inspections.
- 403.65. Certificate of occupancy.
- 403.66. Public utility connections.

DEPARTMENT, MUNICIPAL AND THIRD-PARTY ENFORCEMENT FORNONCOMPLIANCE

- 403.81. Stop work order.
- 403.82. Notice of violations.
- 403.83. Order to show cause/order to vacate.
- 403.84. Unsafe building, structure or equipment.
- 403.85. Release, retention and sharing of commercial construction records.
- 403.86. Right of entry to inspect.

MUNICIPAL ELECTION

- 403.101. Effective date.
- 403.102. Municipalities electing to enforce the Uniform Construction Code.
- 403.103. Municipalities electing not to enforce the Uniform Construction Code.
- 403.104. Department review.

BOARD OF APPEALS

- 403.121. Board of appeals.
- 403.122. Appeals, variances and extensions of time.

DEPARTMENT ENFORCEMENT

- 403.141. Enforcement by the Department.
- 403.142. Accessibility Advisory Board

GENERALLY

§ 403.1. Scope.

(a) *Application.* 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.

(b) *Exclusions.* 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 square feet and is accessory to a detached one-family dwelling:

(i) Carports.

(ii) Detached private garages.

(iii) Greenhouses.

(iv) Sheds.

(4) An agricultural building defined under section 103 of the act (35 P. S. § 7210.103).

(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).

(c) *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) 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 electrical provision of the Uniform Construction Code does not apply to a dwelling unit utilized by a member 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 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 of the Uniform Construction Code.

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

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

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

§ 403.2. Other statutes or ordinances.

(a) Under section 104(d)(1) of the act (35 P. S. § 7210.104(d)(1)), the provisions of the Uniform Construction Code listed in § 403.21 (relating to Uniform Construction Code) preempt and rescind construction standards provided by a statute, local ordinance or regulation. The rescission or

preemption does not apply to ordinances in effect on July 1, 1999, or reenactments of simultaneously repealed ordinances which were originally adopted before July 1, 1999, which contain provisions which meet or exceed the Uniform Construction Code under section 303(b)(1) of the act (35 P. S. § 7210.303 (b)(1)).

(b) Under section 303(a)(2) of the act, a municipal building code ordinance provision in effect in or adopted by a city of the first class on or before January 1, 1998, shall remain in effect until December 31, 2003. The provisions of the ordinance which do not comply with the Uniform Construction Code on December 31, 2003, will be amended to provide for the minimum requirements of the Uniform Construction Code.

§ 403.3. Building code official delegation.

(a) The Department, a municipality or third-party agency shall employ or contract with a building code official to enforce the act.

(b) A building code official may delegate his duties to a construction code official or current code administrator.

STANDARDS

§ 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."
- (6) The "International Residential Code."
- (7) The "International Fire 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) The "International Urban-Wildland Interface Code."
- (12) Appendix E of the "International Building Code."
- (13) Appendix H of the "International Building Code."
- (14) Appendix G of the International Residential Code."

(b) The codes and standards adopted under subsection (a) are part of the Uniform Construction Code to the prescribed extent of each code or standard. The provisions of the Uniform Construction Code apply if there is a difference between the Uniform Construction Code and the codes or standards adopted in subsection (a). This chapter's administrative provisions govern under § 403.27(e) (relating to applicability and use of standards) if there is a conflict with the provisions of the codes relating to administration incorporated under subsection (a).

(c) Appendices to a code or standard listed in subsection (a) are not adopted in the Uniform Construction Code except for the provisions adopted in subsection (a)(9) and (12)--(14).

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

(g) 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."

§ 403.22. Health care facilities.

(a) A health care facility shall comply with all of the following under sections 104(d)(3) and 105(d)(1) of the act (35 P. S. §§ 7210.104(d)(3) and 7210.105(d)(1)):

(1) The Health Care Facilities Act.

(2) Regulations of the Department of Health in 28 Pa. Code Part IV (relating to health facilities).

(3) Building codes and regulations set forth in the applicable licensure laws and regulations under section 105(d) of the act (35 P. S. § 7210.105(d)).

(4) This chapter.

(b) Chapter 405 (relating to elevators and other lifting devices) always applies to health care facilities.

(c) In addition to the requirements of this chapter, a permit applicant for a health care facility shall obtain a license from the Department of Health under the Health Care Facilities Act and its regulations and comply with the Department of Health's license application procedures and its licensing regulations.

(d) A permit applicant for construction or alteration of a health care facility shall do all of the following:

(1) Submit construction or alteration plans to the Department of Health and obtain Department of Health approval before commencing construction or performing the alteration.

(2) Obtain approval from the Department of Health before occupancy of a new health care facility under 28 Pa. Code § 51.5 (relating to building occupancy).

(3) Obtain approval from the Department of Health before occupancy of an altered portion of an existing health care facility.

(e) A Department of Health inspector may inspect a health care facility site before, during and after construction to monitor compliance with Department of Health's health facility regulations.

(f) A building code official may not approve plans for a health care facility under this chapter unless the Department of Health has approved the plans.

(g) A building code official may not issue a certificate of occupancy for the health care facility under this chapter unless the Department of Health approved occupancy under 28 Pa. Code § 51.5.

(h) This section applies to construction or alteration of all health care facilities that the Department or a building code official review and approve under this chapter.

§ 403.23. Child day care facilities.

(a) A dwelling unit where child day care services are provided for less than 24 hours for 4 to 12 children is an R-3 occupancy if the dwelling unit is used primarily as a private residence and the provision of day care services is accessory to the principal use of the dwelling unit as a residence.

(b) A day care facility that is an R-3 occupancy under subsection (a) which provides day care services to 4--6 children shall comply with all of the following:

(1) Have a smoke detector on each floor and in the basement. The smoke detector may be powered by a nonreplacable, lithium battery listed by Underwriters Laboratories® that is warranted for 10 years and should sound an alarm when activated that is audible to persons in the unit's indoor child care space with all intervening doors closed. Where this type of detector is utilized, the unit owner of this detector shall keep the proof and date of purchase of the detector in the unit's fire drill logs.

(2) Have a portable fire extinguisher rated for Class B Fires in the kitchen and other cooking areas.

(3) Meet the exiting requirements for an R-3 occupancy and licensure under 55 Pa. Code Chapter 3290 (relating to family child day care homes).

(c) A day care facility that is an R-3 occupancy under subsection (a) which provides day care services to 7--12 children shall comply with all of the following:

- (1) Have an interconnected smoke detector system.
- (2) Have a fire extinguisher rated for Class B fires in the kitchen and other cooking areas.
- (3) Meet the exiting requirements for an R-3 occupancy and licensure under 55 Pa. Code Chapter 3280 (relating to group child day care homes).
- (d) All other child day care facilities shall be classified under Chapter 3 of the "International Building Code." The facilities shall meet all Uniform Construction Code standards for these occupancy classifications.

§ 403.24. Historic buildings, structures and sites.

A building code official may exclude an entire historic building or structure or part of the building or structure from compliance with the Uniform Construction Code if it meets all of the following conditions under section 902 of the act (35 P. S. § 7210.902):

- (1) The building or structure is an existing building or structure, or a new building or structure that is not intended for residential use on an historic site.
- (2) The building or structure is identified and classified by Federal or local government authority or the Historical and Museum Commission as an historic building or site.
- (3) A building code official judges the building or structure or parts of the building and structure as safe and the exclusion is in the interest of public health, safety or welfare. The building code official shall apply the Uniform Construction Code to parts of the building or structure where its exclusion is not within the interest of the public health, safety and welfare. A building code official may not waive the Uniform Construction Code's accessibility requirements under this section.

§ 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 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).

(2) 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.

(b) Industrialized housing is governed by the following under section 901(a) of the act:

(1) Except as provided in subsection (b)(2), the Uniform Construction Code does not apply to industrialized housing assembled by and shipped from the manufacturer.

(2) The Uniform Construction Code applies to all of the following:

- (i) Site preparation.
- (ii) Foundation construction.
- (iii) Utilities connection.

(iv) Construction, alteration or repair to the industrialized housing unit after installation.

(v) Construction, alteration, repair or occupancy if industrialized housing is resold to a subsequent purchaser.

(vi) Construction, alteration, repair or occupancy if industrialized housing is relocated.

(c) The Department of Community and Economic Development may enforce and take action under the Industrialized Housing Act (35 P. S. §§ 1651.1--1651.12) and the Manufactured Housing Construction and Safety Standards Authorization Act (35 P. S. §§ 1656.1--1656.9).

§ 403.26. Swimming pools.

(a) A swimming pool, hot tub and spa which is accessory to a one- or two-family dwelling shall comply with all of the following:

(1) Chapter 41 of the "International Residential Code."

(2) Appendix G of the "International Residential Code."

(3) Section 2406.2, paragraph 9 of the International Building Code (glazing in walls and fences enclosing indoor and outdoor swimming pools, hot tubs and spas).

(4) Section 3109.4 of the "International Building Code (residential swimming pool enclosures).

(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 NSPI (ANSI/NSPI-1 1991) 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 NSPI (ANSI/NSPI-2 1999).

§ 403.27. Applicability and use of standards.

(a) Portions of this chapter designate and incorporate portions of the following ICC 2003 copyrighted works:

(1) The "International Building Code."

(2) The "International Residential Code."

(3) The "ICC Electrical Code."

(4) The "International Plumbing Code."

(5) The "International Mechanical Code."

(b) The "International Residential Code" and the "International Existing Building Code" apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings no more than 3 stories in height with a separate means of egress and their accessory structures.

(c) The ICC owns the copyrighted works in subsection (a). Reproduced with permission. All rights reserved.

(d) If different sections of this chapter specify different materials, method of construction or other requirements, the most restrictive material, method of construction or other requirement shall govern. The specific requirement of this part applies if there is a conflict between a general requirement and a specific requirement.

(e) This chapter governs if there is a conflict between this chapter and the provisions of the codes relating to administration incorporated under § 403.21(a) (relating to Uniform Construction Code).

(f) A provision of the "International Mechanical Code" does not apply if the provision conflicts with the Boiler and Unfired Pressure Vessel Law (35 P. S. §§ 1331.1--1331.9).

PERMIT AND INSPECTION PROCESS FOR COMMERCIAL CONSTRUCTION

§ 403.41. Commercial construction.

This section and §§ 403.42--403.48 apply to the Department and municipalities electing to enforce the Uniform Construction Code under § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code).

§ 403.42. Permit requirements and exemptions.

(a) An owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a commercial building, structure and facility or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, or plumbing system regulated by the Uniform Construction Code shall first apply to the building code official and obtain the required permit under § 403.42a (relating to permit application).

(b) Emergency repairs or replacement of equipment may be made without first applying for a permit if a permit application is submitted to the building code official within 3 business days of the repair or replacement.

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

(1) Building construction for the following:

(i) Fences that are not over 6 feet high.

(ii) Oil derricks.

(iii) Retaining walls, which are not over 4 feet in height measured from the lowest level of grade to the top of the wall, unless it is supporting a surcharge or impounding Class I, II or III-A liquids.

(iv) 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.

(v) Sidewalks and driveways not more than 30 inches above grade and that are not located over a basement or story below it and which are not part of an accessible route.

(vi) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finishing work.

(vii) Temporary motion picture, television, and theater stage sets and scenery.

(viii) Prefabricated swimming pools accessory to a Group R-3 occupancy which are less than 24 inches deep, do not exceed 5,000 gallons and are installed entirely aboveground.

(ix) Shade cloth structures constructed for nursery or agricultural purposes that do not include service systems.

(x) Swings and other playground equipment accessory to one- or two-family dwellings.

(xi) 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 of group R-3 as applicable in the "International Building Code," and Group U occupancies.

(xii) Movable cases, counters and partitions that are not over 5 feet 9 inches in height.

(xiii) Window replacement without structural change.

(2) Electrical work for the following:

(i) Minor repair and maintenance work that includes the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

(ii) Electrical equipment used for radio and television transmissions. The provisions of the Uniform Construction Code apply to equipment and wiring for power supply and the installation of towers and antennas.

(iii) The installation of a temporary system for the testing or servicing of electrical equipment or apparatus.

(3) The following gas work:

(i) A portable heating appliance.

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

(4) The following mechanical work or equipment:

(i) A portable heating appliance.

(ii) Portable ventilation equipment.

(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 part that does not alter its approval or make it unsafe.

(vi) A portable evaporative cooler.

(vii) A self-contained refrigeration system containing 10 pounds or less of refrigerant and placed into action by motors that are not more than 1 horsepower.

(5) The following plumbing repairs:

(i) Stopping leaks in a drain and a water, soil, waste or vent pipe. The Uniform Construction Code applies if a concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and is removed and replaced with new material.

(ii) Clearing stoppages or repairing leaks in pipes, valves or fixtures, and the removal and installation of water closets, faucets and lavatories if the valves or pipes are not replaced or rearranged.

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

(1) Cutting away a 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 definitions).

(f) A building code official may issue an annual permit instead of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation. All of the following are required:

(1) The applicant shall regularly employ at least one qualified trades person in the building or structure owned or operated by the applicant.

(2) The applicant shall submit an application in accordance with § 403.42a(m).

(3) An annual permit holder shall keep detailed records of alterations made in accordance with the annual permit. The permit holder shall provide access to these records to the building code official.

§ 403.42a. Permit application.

(a) Applications for a permit required under § 403.42 (relating to permit requirements and exemptions) shall be submitted to the building code official in accordance with this section.

(b) A permit applicant shall submit an application to the building code official and attach construction documents, including plans and specifications, and information concerning special inspection and structural observation programs, Department of Transportation highway access permits and other data required by the building code official with the permit application. The applicant shall submit three sets of documents when the Department conducts the review.

(c) A licensed architect or licensed professional engineer shall prepare the construction documents under the Architects Licensure Law (63 P. S. §§ 34.1--34.22), or the Engineer, Land Surveyor and Geologist Registration Law (63 P. S. §§ 148--158.2). An unlicensed person may prepare design documents for the remodeling or alteration of a building if there is no compensation and the remodeling or alteration does not relate to additions to the building or changes to the building's structure or means of egress.

(d) A building code official may require submission of additional construction documents in special circumstances.

(e) The permit applicant shall submit construction documents in a format approved by the building code official. Construction documents shall be clear, indicate the location, nature and extent of the work proposed, and show in detail that the work will conform to the Uniform Construction Code.

(f) All of the following fire egress and occupancy requirements apply to construction documents:

(1) The permit applicant shall submit construction documents that show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the Uniform Construction Code.

(2) The construction documents for occupancies other than Groups R-2 and R-3 shall contain designation of the number of occupants to be accommodated on every floor and in all rooms and spaces.

(3) The permit applicant shall submit shop drawings for a fire protection system that indicates conformance with the Uniform Construction Code in accordance with the following:

(i) The shop drawings shall be approved by the building code official before the start of the system installation.

(ii) The shop drawings must contain the information required by the referenced installation standards contained in Chapter 9 of the "International Building Code."

(g) Construction documents shall contain the following information related to the exterior wall envelope:

(1) Description of the exterior wall envelope indicating compliance with the Uniform Construction Code.

(2) Flashing details.

(3) Details relating to intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane and details around openings.

(h) Construction documents shall contain a site plan that is drawn to scale. The building code official may waive or modify the following site plan requirements if the permit application is for an alteration or repair or if waiver or modification is warranted. Site plan requirements include all of the following:

(1) The size and location of new construction and existing structures on the site.

(2) Accurate boundary lines.

(3) Distances from lot lines.

(4) The established street grades and the proposed finished grades.

(5) 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.

(6) Location of parking spaces, accessible routes, public transportation stops and other required accessibility features.

(i) A permit applicant shall submit certifications required in the "International Building Code" for construction in a flood hazard area to the building code official.

(j) A permit applicant shall identify, on the application, the name and address of the licensed architect or engineer in responsible charge. The permit applicant shall notify the building code official in writing if another licensed architect or engineer assumes responsible charge.

(k) The permit applicant shall describe an inspection program, identify a person or firm who will perform special inspections and structural observations if section 1704 or 1709 of the "International Building Code" requires special inspections or structural observations for the construction.

(l) A building code official may waive or modify the submission of construction documents, that are not required to be prepared by a licensed architect or engineer, or other data if the nature of the work applied for does not require review of construction documents or other data to obtain compliance with the Uniform Construction Code. The building code official may not waive the submission of site plans that relate to accessibility requirements.

(m) An applicant for an annual permit under § 403.42(f) shall complete an application and provide information regarding the system that may be altered and the date that approval was previously provided for the approved electrical, gas, mechanical or plumbing installation.

(n) A permit applicant shall comply with the permit, certification or licensure requirements of the following laws applicable to the construction:

(1) The Boiler and Unfired Pressure Vessel Law (35 P. S. §§ 1331.1--1331.19).

(2) The Propane and Liquefied Petroleum Gas Act (35 P. S. §§ 1329.1--1329.19).

(3) The Health Care Facilities Act.

(4) The Older Adult Daily Living Centers Licensing Act (62 P. S. §§ 1511.1--1511.22).

§ 403.43. Grant, denial and effect of permits.

(a) A building code official shall grant or deny a permit application, in whole or in part, within 30 business days of the filing date. Reasons for the denial shall be in writing and sent to the applicant. The building code official

and the permit applicant may agree in writing to extend the deadline by a specific number of days. A building code official may establish a different deadline to consider applications for a permit in an historic district.

(b) A building code official shall examine the construction documents and shall determine whether the construction indicated and described is in accordance with the Uniform Construction Code and other pertinent laws or ordinances as part of the application process.

(c) A building code official shall stamp or place a notation on each page of the set of reviewed construction documents that the documents were reviewed and approved for Uniform Construction Code compliance before the permit is issued. The building code official shall clearly mark any required nondesign changes on the construction documents. The building code official shall return a set of the construction documents with this notation and any required changes to the applicant. The permit holder shall keep a copy of the construction documents at the work site open to inspection by the construction code official or an authorized representative.

(d) A building code official may not issue a permit for any property requiring access to a highway under the Department of Transportation's jurisdiction unless the permit contains notice that a highway occupancy permit is required under section 420 of the State Highway Law (36 P. S. § 670-420) before driveway access to a Commonwealth highway is permitted.

(e) A building code official may issue a permit for the construction of the foundations or other parts of a building or structure before the construction documents for the whole building or structure are submitted if the permit applicant previously filed adequate information and detailed statements for the building or structure under the Uniform Construction Code. Approval under this section is not assurance that the building code official will issue a permit for the entire building or structure.

(f) Issuance of a permit does not bar prosecution or other legal action for violations of the act, the Uniform Construction Code or a construction ordinance. A building code official may suspend or revoke a permit issued under the Uniform Construction Code when the permit holder does not make the required changes directed by the building code official under subsection (c), when the permit is issued in error, on the basis of inaccurate or incomplete information or in violation of any act, regulation, ordinance or the Uniform Construction Code.

(g) A permit becomes invalid unless the authorized construction work begins within 180 days after the permit's issuance or if the authorized construction work permit is suspended or abandoned for 180 days after the

work has commenced. A permit holder may submit a written request for an extension of time to commence construction for just cause. The building code official may grant extensions of time to commence construction in writing. A permit may be valid for no more than 5 years from its issue date.

(h) The permit holder shall keep a copy of the permit on the work site until the completion of the construction.

(i) A permit applicant may request extensions of time or variances or appeal a building code official's action on the permit application to a board of appeals under § 403.122 (relating to appeals, variances and extensions of time).

(j) A board of appeals may not rule on requests for extensions of time, variances or appeals relating to this chapter's accessibility requirements. The Secretary has the exclusive power to grant modifications and extensions of time and decide issues of technical infeasibility under § 403.142 (relating to Accessibility Advisory Board)

(k) A building code official may allow deferred submittals of portions of the design of the building and structure from the time of the application until a specified time set by the building code official. All of the following apply to deferred submittals:

(1) The building code official shall provide prior approval of the deferral of any submittal items.

(2) A licensed architect or professional engineer in responsible charge shall list the deferred submittals on the construction documents for review by the building code official.

(3) A licensed architect or professional engineer shall first review submittal documents for deferred submittal items and place a notation on the documents that the architect or engineer reviewed the documents and that the documents are in general conformance with the design of the building or structure.

(4) Deferred submittal items may not be installed until the building code official approves the design and submittal documents for the deferred submittal items.

(l) Work shall be installed in accordance with the approved construction documents. The permit holder shall submit a revised set of construction documents for approval for changes made during construction that are not in accordance with the approved construction documents.

(m) A permit is not valid until the required fees are collected under §§ 401.2 and 401.2a (relating to Department fees; and municipal and third-party agency fees).

§ 403.44. Alternative construction materials and methods.

(a) Materials, products and methods of construction that were evaluated as meeting codes enumerated in § 403.21 (relating to Uniform Construction Code) by the ICC Evaluation Service, Inc. or an evaluation service accredited under the "General Requirements for Bodies Operating Product Certification Systems" issued by the ISO (ISO Guide 65) are approved for use. The use shall conform with the evaluation.

(b) Materials, equipment and devices bearing the label or listed by a testing laboratory or quality assurance agency accredited by the International Accreditation Service, Inc. or another agency accredited under the "Calibration and Testing Laboratory Accreditation Systems-General Requirements for Operation and Recognition" issued by ISO (ISO Guide 58) are approved for use if:

(1) The testing laboratory or quality assurance agency deemed the material as meeting Uniform Construction Code-required standards.

(2) The scope of accreditation is applicable to Uniform Construction Code-required standards.

(c) A new building or remodeling, alteration, addition or change of use and occupancy of an existing building which complies with the International Performance Code shall also be in compliance with the Uniform Construction Code.

§ 403.45. Inspections.

(a) A construction code official shall perform inspections to insure that the construction complies with the approved permit and the Uniform Construction Code.

(b) Before issuing a permit, a building code official may examine, or cause to be examined, buildings, structures, facilities or sites related to the permit application.

(c) The permit holder or an authorized agent shall notify the construction code official when work is ready for inspection and provide access for the inspection. The work shall remain accessible and exposed for inspection. A construction code official may inspect the construction and equipment only during normal hours at the construction site unless the permit holder or

agent requests or agrees to another time. Inspections may be conducted under § 403.86 (relating to right of entry to inspect).

(d) A construction code official shall notify a permit holder if construction complies with the Uniform Construction Code or fails to comply with the Uniform Construction Code.

(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).

(6) Mechanical under § 401.7(8).

(7) Energy conservation under § 401.7(10).

§ 403.46. Certificate of occupancy.

(a) A building, structure or facility may not be used or occupied without a certificate of occupancy issued by a building code official.

(b) A building code official shall issue a certificate of occupancy within 5 business days after receipt of a final inspection report that indicates compliance with the Uniform Construction Code. The certificate of occupancy shall contain the following information:

(1) The permit number and address of the building, structure or facility.

(2) The permit holder's name and address.

(3) A description of the portion of the building, structure or facility covered by the occupancy permit.

(4) The name of the building code official who issued the occupancy permit.

(5) The applicable construction code edition applicable to the occupancy permit.

(6) The use and occupancy classification under Chapter 3 (Use and Occupancy Classification) of the "International Building Code," when designated.

(7) The type of construction defined in Chapter 6 (Types of Construction) of the "International Building Code," when designated.

(8) Special stipulations and conditions relating to the permit and board of appeals' decisions and variances for accessibility requirements granted by the Secretary.

(9) The date of the final inspection.

(c) A building code official may issue a certificate of occupancy for a portion of a building, structure or facility if the portion independently meets the Uniform Construction Code.

(d) A building code official may suspend or revoke a certificate of occupancy when the certificate was issued in error, on the basis of incorrect information supplied by the permit applicant or in violation of the Uniform Construction Code. Before a certificate of occupancy is revoked, a building owner may request a hearing before the board of appeals under § 403.122 (relating to appeals, variances and extensions of time).

§ 403.47. Public utility connections.

(a) A building code official may authorize the temporary connection of a building or system under construction to a utility source of energy, fuel or power.

(b) Connection to a public electric or gas utility for the completed construction may not occur unless the permit holder provides written proof to the utility company that the building or structure passed inspections under this chapter.

§ 403.48. Boilers.

(a) The Boiler and Unfired Pressure Law (35 P. S. §§ 1331.1--1331.19) and Chapter 3 (relating to boilers and unfired pressure vessels) govern the new installation, repair or replacement of a boiler or other pressure vessel.

(b) A permit under this chapter is not required for the installation, repair or replacement of a boiler or unfired pressure vessel under subsection (a). The building or structure containing the boiler or unfired pressure vessel shall comply with the Uniform Construction Code or the regulation or ordinance in effect at the time of its legal occupancy.

PERMIT AND INSPECTION PROCESS FOR RESIDENTIAL BUILDINGS

§ 403.61. Residential buildings.

This subchapter and §§ 403.62--403.66 apply to municipalities electing to enforce the Uniform Construction Code under § 403.102 (relating to municipalities electing to enforce the Uniform Construction Code) and third-party agencies.

§ 403.62. Permit requirements and exemptions.

(a) An owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a residential building or erect, install, enlarge, alter, repair, remove, convert or replace an electrical, gas, mechanical or plumbing system regulated by the Uniform Construction Code shall first apply to the building code official and obtain the required permit under § 403.62a (relating to permit application).

(b) An emergency repair or replacement of equipment may be made without first applying for a permit if a permit application is submitted to the building code official within 3 business days of the repair or replacement.

(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.

(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.

(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.

(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.

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

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

(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.

(xiii) Replacement of existing siding.

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

(xv) Installation of additional roll or batt insulation.

(xvi) Replacement of exterior rain water gutters and leaders.

(xvii) 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.

(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 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.

(a) Applications for a permit required under § 403.62 (relating to permit requirements and exemptions) shall be submitted to the building code official in accordance with this section.

(b) A permit applicant shall submit an application to the building code official and attach construction documents with plans and specifications.

(c) A building code official may waive the submission of construction documents if the nature of the construction does not require the review of the construction documents to determine compliance with the Uniform Construction Code.

(d) A permit applicant for a building or structure located in a flood hazard area under the National Flood Insurance Program shall submit the following information with the construction documents:

(1) Delineation of flood hazard areas, floodway boundaries and flood zones and the design flood elevation, as appropriate.

(2) The elevation of the proposed lowest floor including basement and the height of the proposed lowest floor including basement above the highest adjacent grade is to be included in the documents if the building or structure is located in areas of shallow flooding (Zone AO).

(3) Design flood elevations contained on the municipality's Flood Insurance Rate Map produced by the Federal Emergency Management Agency. The building code official and the applicant shall obtain and reasonably utilize design flood elevation and floodway data available from other sources if this information is not contained on the municipality's Flood Insurance Rate Map.

(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 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.

§ 403.63. Grant, denial and effect of permits.

(a) A building code official shall grant or deny a permit application, in whole or in part, within 15 business days of the filing date or the application is deemed approved. Reasons for the denial must be in writing and sent to the permit applicant. The building code official and the applicant may agree in writing to extend the deadline by a specific number of days.

(b) A building code official shall examine the construction documents and shall determine whether the construction indicated and described is in accordance with the Uniform Construction Code and other pertinent laws or ordinances as part of the application process.

(c) A building code official shall stamp or place a notation on each page of the set of reviewed construction documents that the documents were reviewed and approved for Uniform Construction Code compliance before the permit is issued. The building code official shall clearly mark any required nondesign changes on the construction documents. The building code official shall return a set of the construction documents with this notation and any required changes to the applicant. The applicant shall keep a copy of the construction documents at the work site open to inspection by the construction code official or an authorized representative.

(d) A building code official may not issue a permit for any property requiring access to a highway under the Department of Transportation's jurisdiction unless the permit contains notice that a highway occupancy permit is required under section 420 of the State Highway Law (36 P. S. § 670-420) before driveway access to a Commonwealth highway is permitted.

(e) A building code official may issue a permit for the construction of the foundations or other parts of a building or structure before the construction documents for the whole building or structure are submitted if the permit applicant previously filed adequate information and detailed statements for the building or structure under the Uniform Construction Code. Approval under this section is not assurance that the building code official will issue a permit for the entire building or structure.

(f) Issuance of a permit does not bar prosecution or other legal action for violations of the act, the Uniform Construction Code or a construction ordinance. A building code official may suspend or revoke a permit issued under the Uniform Construction Code when the owner does not make the required changes directed by the building code official under subsection (c),

when the permit is issued in error, on the basis of inaccurate or incomplete information or in violation of any act, regulation, ordinance or the Uniform Construction Code.

(g) A permit becomes invalid unless the authorized construction work begins within 180 days after the permit's issuance or if the authorized construction work permit is suspended or abandoned for 180 days after the work has commenced. A permit holder may submit a written request for an extension of time to commence construction for just cause. The building code official may grant extensions of time to commence construction in writing. A permit may be valid for no more than 5 years from its issue date.

(h) The permit holder shall keep a copy of the permit on the work site until the completion of the construction.

(i) A permit applicant may request extensions of time or variances or appeal a building code official's action on the permit application to a board of appeals under § 403.122 (relating to appeals, variances and extensions of time) in a municipality which has adopted an ordinance for the administration and enforcement of the act or municipalities which are parties to an agreement for the joint administration and enforcement of the act.

(j) Work shall be installed in accordance with the approved construction documents. The permit holder shall submit a revised set of construction documents for approval for changes made during construction that are not in accordance with the approved construction documents.

(k) A permit is not valid until the required fees are collected under § 401.2a (relating to municipal and third-party agency fees).

§ 403.64. Inspections.

(a) A construction code official shall inspect all construction for which a permit was issued. The permit holder shall insure that the construction is accessible for inspection. An inspection does not bar prosecution or other legal action for violation of the Uniform Construction Code.

(b) The permit holder or an authorized agent shall notify the construction code official when work is ready for inspection and provide access for the inspection.

(c) The construction code official shall notify a permit holder if construction complies with the Uniform Construction Code or fails to comply with the Uniform Construction Code.

(d) A construction code official shall make the following inspections and file inspection reports relating to Uniform Construction Code compliance in all of the following areas:

- (1) Foundation inspection.
- (2) Plumbing, mechanical and electrical system inspection.
- (3) Frame and masonry inspection.
- (4) Wallboard inspection.

(e) The construction code official may conduct other inspections to ascertain compliance with the Uniform Construction Code or municipal ordinances.

(f) A construction code official shall conduct a final inspection of the completed construction work and file a final inspection report that indicates compliance with the Uniform Construction Code.

(g) A third-party agency under contract with a permit holder shall submit a copy of the final inspection report to the property owner, builder and the lender designated by the builder.

§ 403.65. Certificate of occupancy.

(a) A residential building may not be used or occupied without a certificate of occupancy issued by a building code official.

(b) A building code official shall issue a certificate of occupancy after receipt of a final inspection report that indicates compliance with the Uniform Construction Code within 5 business days. The certificate of occupancy shall contain all of the following information:

- (1) The permit number and address of the residential building.
- (2) The name and address of the owner of the residential building.
- (3) A description of the portion of the residential building covered by the occupancy permit.
- (4) A statement that the described portion of the residential building was inspected for compliance with the Uniform Construction Code.
- (5) The name of the building code official who issued the occupancy permit.

- (6) The construction code edition applicable to the occupancy permit.
- (7) If an automatic sprinkler system is provided.
- (8) Any special stipulations and conditions relating to the building permit.

(c) A building code official may issue a certificate of occupancy for a portion of a residential building if the portion independently meets the Uniform Construction Code.

(d) A building code official may suspend or revoke a certificate of occupancy when the certificate was issued in error, on the basis of incorrect information supplied by the permit applicant, or in violation of the Uniform Construction Code. Before a certificate of occupancy is revoked, a building owner may request a hearing before the board of appeals in accordance with § 403.122 (relating to appeals, variances and extensions of time).

(e) A third-party agency under contract with a building permit holder shall submit a copy of the certificate of occupancy to the municipality.

§ 403.66. Public utility connections.

(a) A building code official may authorize the temporary connection of a building or system under construction to a utility source of energy, fuel or power.

(b) Connection to a public electric or gas utility for the completed construction may not occur unless the permit holder provides written proof to the utility company that the building or structure passed inspections under this chapter.

**DEPARTMENT, MUNICIPAL AND THIRD-PARTY ENFORCEMENT FOR
NONCOMPLIANCE**

§ 403.81. Stop work order.

(a) A building code official may issue a written stop work order when the official determines that construction violates the Uniform Construction Code or is being performed in a dangerous or unsafe manner. The stop work order is to contain the reasons for the order and list the required conditions for construction to resume.

(b) The building code official shall serve the stop work order on the permit owner or the owner's agent by certified mail or personal service.

(c) A person who continues construction after service of a stop work order, except for construction work that is necessary to remove a violation or an unsafe condition, may be subject to the penalties under section 903 of the act (35 P. S. § 7210.903). A building code official may seek enforcement of a stop work order in a court of competent jurisdiction.

§ 403.82. Notice of violations.

A building code official shall follow the following procedures if an inspection reveals a violation of the Uniform Construction Code:

(1) A construction code official shall discuss the inspection results with the permit holder at the completion of the inspection.

(2) The building code official may issue a written notice of violations to the permit holder. The notice is to contain a description of the violations and an order requiring correction of the violations within a reasonable period determined by the building code official. When a violation relates to an unsafe building, structure or equipment, a building code official shall act in accordance with § 403.84 (relating to unsafe building, structure or equipment).

(3) After the compliance date contained in the order, the building code official shall inspect the building, structure or equipment to determine whether the violation was corrected. The building code official shall close the order if the violation was corrected. The building code official may issue an order to show cause under § 403.83 (relating to order to show cause/order to vacate) to the owner for a violation that was not corrected.

§ 403.83. Order to show cause/order to vacate.

(a) A building code official may initiate action to vacate or close a building, structure or equipment for violations of the Uniform Construction Code by

issuing an order to show cause to the owner or owner's agent of a building or structure.

(b) The order to show cause shall contain a statement of the grounds for the action, the alleged violations of the Uniform Construction Code and notification that the building, structure or equipment may be closed or vacated. The order to show cause shall contain notification that the owner or owner's agent shall submit a written answer within 30 days. The building code official shall serve the order to show cause upon the owner or owner's agent by certified mail or personal service.

(c) The owner or owner's agent may file a written answer to the order to show cause with the building code official within 30 days following service of the order to show cause. The answer shall contain specific admissions or denials of the allegations contained in the order to show cause and set forth the specific facts, matters of law or Uniform Construction Code interpretation relied upon by the owner. The answer may contain a request for a variance or an extension of time for compliance. The building code official shall forward all requests for variances, extensions of time or appeals regarding interpretations of the Uniform Construction Code to the board of appeals within 5 business days. The building code official shall send a request for variance, extension of time or appeals regarding interpretation of the Uniform Construction Code's accessibility requirements to the Department within 5 business days.

(d) If the owner or owner's agent files an appeal, the board of appeals or Department will assume jurisdiction and consolidate the answer with any pending request for variance, extension of time or appeal filed by the owner with the board of appeals.

(e) The building code official shall consider the pending request for variance or extension of time or appeal as a stay to an enforcement action.

(f) After receipt of the answer, the building code official may take the following actions if the owner or owner's agent did not previously file an appeal or request for variance or extension of time:

(1) Issue a stop work order.

(2) Vacate or close the building or structure or place equipment out of operation.

(3) Abate or modify the alleged violation.

(4) Order other action to protect persons or property.

(g) A construction code official shall inspect the construction at the expiration of an extension of time or other time period granted for compliance under this section. If the building, structure or equipment violates the Uniform Construction Code following inspection, the building code official may issue an order vacating or closing the building or structure or placing equipment out of operation. The building code official shall serve this order upon the owner or owner's agent by certified mail or personal service.

(h) Where an unsafe condition exists, a building code official shall act in accordance with § 403.84 (relating to unsafe building, structure or equipment).

§ 403.84. Unsafe building, structure or equipment.

(a) A building code official may determine that a building, structure or equipment is unsafe because of inadequate means of egress, inadequate light and ventilation, fire hazard, other dangers to human life or the public welfare, illegal or improper occupancy or inadequate maintenance. A vacant building or structure that is not secured against entry is unsafe under this section.

(b) When a building code official determines the existence of an unsafe condition, the building code official shall order the vacating of the building or structure.

(c) A building code official shall serve a written notice on the owner or owner's agent of the building, structure or equipment that is unsafe under this section. The notice shall contain the order to vacate the building, structure or seal the equipment out of service and state the unsafe conditions, required repairs or improvements. The order shall be served by certified mail or personal service to the owner or to the owner's agent's last known address or on the owner, agent or person in control of the building, structure or equipment. A building code official shall post the written notice at the entrance of the structure or on the equipment if service cannot be accomplished by certified mail or personal service.

(d) When a building or structure is ordered vacated under this section, the building code official shall post a notice at each entrance stating that the structure is unsafe and its occupancy is prohibited.

(e) A building code official may not rescind the order to vacate until the owner abates or corrects the unsafe condition.

(f) The Department may seal an elevator for an unsafe condition under section 105(c)(1) of the act (35 P. S. § 7210.105(c)(1)). The Department is

the only entity that may remove or authorize the removal of a seal if an owner abates or corrects the unsafe condition.

§ 403.85. Release, retention and sharing of commercial construction records.

(a) A building code official shall keep records of all applications received, permits issued, reviewed building plans and specifications, certificates issued, fees collected, reports of inspections, notices and orders issued for all commercial buildings and structures under the Uniform Construction Code. A building code official shall retain these records as long as the related building, structure or equipment remains in existence.

(b) A building code official shall reproduce records kept in an electronic format to a hard-copy format upon request. A building code official may charge for the reproduction costs.

(c) A municipality that discontinues enforcing the Uniform Construction Code shall keep records of previous Uniform Construction Code enforcement. A municipality shall make these records available to the Department.

(d) The Department will make its records available to a municipality that elects to enforce the Uniform Construction Code under section 501 of the act (35 P. S. § 7210.501).

(e) The Department, a municipality and a third-party agency acting on behalf of a municipality may prohibit release of applications received, building plans and specifications, inspection reports and similar documents to the public under the act of June 21, 1957 (P. L. 390, No. 212) known as the Right-to-Know Law (65 P. S. §§ 66.1--66.9). The Department, the municipality or the third-party agency may release these documents to the building owner of record, the permit holder, the design professional of record or a third party authorized by the building owner in writing to receive the documents upon presentation of valid identification.

(f) The Department, a municipality and a third-party agency acting on behalf of a municipality may release any document obtained under this chapter to the following:

- (1) The Department.
- (2) The Department of General Services.
- (3) Law enforcement or emergency response entities.

(4) Federal, State or local health entities.

§ 403.86. Right of entry to inspect.

(a) A construction code official may enter a building, structure or premises during normal business hours or at a time agreed to by the owner or owner's agent to perform inspections under the Uniform Construction Code, to enforce Uniform Construction Code provisions or if there is reasonable cause to believe a condition on the building, structure or premises violates the Uniform Construction Code or which constitutes an unsafe condition.

(b) A construction code official may enter a building, structure or premises when the official presents credentials to the occupant and receives permission to enter.

(c) A construction code official may not enter a building, structure or premises that is unoccupied or after normal business hours without obtaining permission to enter from the owner or the owner's agent.

(d) A construction code official may seek the assistance of a law enforcement agency to gain entry to enforce the Uniform Construction Code when the construction code official has reasonable cause to believe that the building, structure or premises is unsafe.

(e) This section shall be used in conjunction with the Fire and Panic Act.

§ 403.101. Effective date.

(a) The Fire and Panic Act, the act of September 1, 1965 (P. L. No. 235) (71 P. S. §§ 1455.1--1455.3b), known as the Universal Accessibility Act and a locally-enacted building code shall remain in effect until the date that one of the following has transpired:

(1) A municipality enacts an ordinance adopting the Uniform Construction Code and the municipality provides written notification to the Department of the adopted ordinance before August 7, 2004.

(2) The initial election and notification period ended on August 7, 2004, and the municipality has not provided written notification to the Department.

(3) The municipality elects not to adopt an ordinance enforcing the Uniform Construction Code and provides written notification to the Department.

(b) After the expiration of the initial election period, a municipality may elect to administer and enforce the Uniform Construction Code. The municipality shall provide 180 days notice to the Department of its intention to pass an ordinance adopting the Uniform Construction Code.

(c) The Fire and Panic Act, the Universal Accessibility Act and a locally-enacted building code shall remain in effect for the following construction:

(1) New buildings or renovations to existing buildings for which an application for a building permit was made to the 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.

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

(a) A municipality which elects to enforce the Uniform Construction Code shall enact an ordinance adopting the Uniform Construction Code as its municipal building code under section 501(a) of the act (35 P. S. § 7210.501(a)).

(b) The initial election period is from April 9, 2004, through July 8, 2004. A municipality shall enact an ordinance adopting the Uniform Construction Code by July 8, 2004.

(c) A municipality shall submit written notification to the Department of adoption of the ordinance and the following information within 30 days of its adoption:

- (1) The number and date of adoption of the ordinance.
- (2) The name of building code official.
- (3) The business address of building code official.
- (4) The business phone number of building code official.
- (5) The electronic mail address of building code official, if available.

(d) A municipality may retain ordinances in effect on July 1, 1999, that contain standards that equal or exceed the Uniform Construction Code under section 303(b) of the act (35 P. S. § 7210.303(b)).

(e) A municipality that administers and enforces the Uniform Construction Code may cease administration and enforcement if it provides 180 days notice to the Department of its intention to adopt an ordinance ceasing administration and enforcement.

(f) A municipality shall notify the Department in writing within 30 days of any changes to the information it provided under subsections (b) and (e).

(g) A municipality that elects to administer and enforce the Uniform Construction Code shall utilize any of the following ways under section 501(b) of the act:

- (1) Employ at least one construction code official and designating an employee to serve as a building code official.
- (2) Retaining one or more third-party agencies.
- (3) Utilizing an intermunicipal agreement under 53 Pa.C.S. §§ 2301--2315 (relating to intergovernmental cooperation).
- (4) Contracting with another municipality.
- (5) Contracting with the Department for plan reviews, inspection and enforcement of structures other than one-family and two-family dwelling units and utility and miscellaneous use structures.

(h) A municipality may charge fees under § 401.2a (relating to municipal and third-party agency fees).

(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. 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.

(j) The Department will review all proposed ordinances that are filed with the Department in accordance with section 503(f) and (i) of the act (35 P. S. § 7210.503(f) and (i)). The Department will provide written notification of its findings to the municipality including the Department's finding on the municipality's compliance with section 503(b) of the act.

(k) A written challenge of an ordinance is governed by the following:

(1) An aggrieved party may file a written challenge of an ordinance within 30 days of its enactment with the Department and the municipality under section 503(j) of the act.

(2) The Secretary will issue a ruling on the challenge within 45 days of receipt of the filing of the last challenge to the ordinance or within 30 days of the Department hearing on the challenge, whichever occurs last, under section 503(k) of the act.

(l) A municipality may enact an ordinance relating to the administration and enforcement of the Uniform Construction Code that meets or exceeds the requirements of the following sections:

(1) Section 403.42(b) and (c) (relating to permit requirements and exemptions).

(2) Section 403.42a(a)--(e) and (g)--(n) (relating to permit application).

(3) Section 403.43(b), (c), (g), (h) and (k) (relating to grant, denial and effect of permits).

(4) Section 403.44 (relating to alternative construction material and methods).

- (5) Section 403.45 (relating to inspections).
- (6) Section 403.46 (relating to certificate of occupancy).
- (7) Section 403.47 (relating to public utility connections).
- (8) Section 403.62(a)--(e) (relating to permit requirements and exemptions).
- (9) Section 403.64 (relating to inspections).
- (10) Section 403.65 (relating to certificates of occupancy).
- (11) Section 403.66 (relating to public utility connections).
- (12) Section 403.81(a) and (b) (relating to stop work order).
- (13) Section 403.82 (relating to notice of violations).
- (14) Section 403.83 (relating to order to show cause/ order to vacate).
- (15) Section 403.84(a)--(e) (relating to unsafe building structure or equipment).
- (16) Section 403.85(a)--(c) (relating to release, retention and sharing of commercial construction records).
- (m) A municipality may utilize forms provided by the Department of Community and Economic Development as the permit application under §§ 403.42a and 403.62a.
- (n) The Department will enforce Chapter 11 (Accessibility) of the Uniform Construction Code and other accessibility requirements contained in or referenced by the Uniform Construction Code until a municipality employs or contracts with a code administrator certified as an accessibility inspector/plans examiner under this part.
- (o) A municipality may observe Department inspections of State-owned buildings in its jurisdiction under section 105(b)(1) of the act (35 P. S. § 7210.105(b)(1)). A municipality may review all building plans and plan review documents for State-owned buildings in the Department's custody.

§ 403.103. Municipalities electing not to enforce the Uniform Construction Code.

(a) A municipality shall provide written notification to the Department before August 7, 2004, if it elects not to administer and enforce the Uniform Construction Code.

(b) An applicant for a residential building permit shall obtain the services of a third-party agency certified in the appropriate categories to conduct the plan review and inspections under §§ 403.61--403.66 (relating to permit and inspection process for residential buildings).

(c) A building code official shall approve an alternative material, design or method of construction if the proposed design is satisfactory and complies with the intent of the Uniform Construction Code and the offered material, method or work is equivalent to Uniform Construction Code requirements for its intended purpose. The building code official shall accept compliance with the International Performance Code as an alternative to compliance with the Uniform Construction Code.

(d) A building code official shall determine the climatic and geographic design criteria contained in Table R301.2(1) of the "International Residential Code" for residential construction.

(e) A third-party agency which conducts plan review and inspection of residential buildings and utility and miscellaneous use structures shall retain copies of all final inspection reports relating to Uniform Construction Code compliance.

(f) A third-party agency shall send a copy of the final inspection report to the property owner, builder, and a lender designated by the builder.

(g) A municipality shall provide written notification to a permit applicant for buildings and structures other than residential buildings that the applicant shall obtain the Department's services for plan review and inspection. The municipality shall send a copy of the notice to the Department. The notice shall contain the following information:

- (1) The name of the applicant.
- (2) The address of the applicant.
- (3) The name of the building or structure.
- (4) The address of the building or structure.

(5) Proposed occupancy or use of building or structure under the Uniform Construction Code.

§ 403.104. Department review.

(a) The Department will investigate written and signed complaints concerning the enforcement and administration of the Uniform Construction Code under section 105(a) of the act (35 P. S. § 7210.105(a)). The Department will make a report to the governing body of the municipality or third-party agency that was the subject of the review and provide recommendations to address any deficiencies found by the Department.

(b) The Department will review each municipal enforcement program at least once every 5 years unless a complaint is received under section 105(a) of the act to ensure that code administrators are adequately administering and enforcing the provisions of Chapter 11 (Accessibility) of the Uniform Construction Code and any other accessibility requirements contained in or referenced by the Uniform Construction Code. The Department will submit a written report to the municipality of its findings. The municipality may submit a written response to the Department.

(c) The Department may take any of the following actions for violations of the act or to obtain compliance with the act:

(1) Initiate proceedings in Commonwealth Court under section 105(a)(3) of the act.

(2) Initiate proceedings against code administrators under section 701 of the act (35 P. S. § 7210.701) and § 401.14 (relating to decertification or refusal to certify).

(3) Initiate prosecutions under section 903 of the act (35 P. S. § 7210.903).

BOARD OF APPEALS

§ 403.121. Board of appeals.

(a) A municipality which has adopted an ordinance for the administration and enforcement of the Uniform Construction Code or is a party to an agreement for the joint administration and enforcement of the Uniform Construction Code shall establish and appoint members to serve on a board of appeals under section 501(c) of the act (35 P. S. § 7210.501(c)).

(b) The board of appeals shall hear and rule on appeals, requests for variances and requests for extensions of time. An application for appeal shall be based on a claim that the true intent of the act or Uniform Construction Code has been incorrectly interpreted, the provisions of the act or Uniform Construction Code do not fully apply or an equivalent form of construction is to be used.

(c) The composition of a board of appeals is governed by all of the following:

(1) A member of the board of appeals shall be qualified by training and experience to pass on matters pertaining to building construction. Training and experience may consist of licensure as an architect or engineer, experience in the construction industry, and training or experience as an inspector or plan reviewer.

(2) A member of the board of appeals holds office at the pleasure of the municipality's governing body.

(3) Members of a municipality's governing body and its code administrators may not serve on a board of appeals.

(4) A municipality may fill a position on the board of appeals with a qualified person who resides outside of the municipality when it cannot find a person within the municipality who satisfies the requirements of this section.

(d) Two or more municipalities may establish a joint board of appeals through an intermunicipal agreement under 53 Pa.C.S. §§ 2301--2315 (relating to intergovernmental cooperation).

(e) A board of appeals member may not cast a vote or participate in a hearing in any appeal, request for variance or request for extension of time in which the member has a personal, professional or financial interest.

(f) A board of appeals shall schedule meetings and provide public notice of meetings in accordance with 65 Pa.C.S. §§ 701--716 (relating to Sunshine Act).

(g) A board of appeals may not act upon appeals, requests for variance or requests for extension of time relating to accessibility under the act.

§ 403.122. Appeals, variances and extensions of time.

(a) An owner or owner's agent may seek a variance or extension of time or appeal a building code official's decision by filing a petition with the building code official or other person designated by the board of appeals on a form provided by the municipality.

(b) The postmark date or the date of personal service will establish the filing date of the appeal and request for variance or extension of time.

(c) An appeal or request for variance or extension of time to a board of appeals will automatically suspend an action to enforce an order to correct until the matter is resolved. An action under § 403.84 (relating to unsafe building, structure or equipment) may not be stayed.

(d) A board of appeals shall decide an appeal, variance request or request for extension of time by reviewing documents and written brief or argument unless the owner or owner's agent requests a hearing.

(e) A board of appeals shall hold a hearing within 60 days from the date of an applicant's request unless the applicant agreed in writing to an extension of time.

(f) A board of appeals shall only consider the following factors when deciding an appeal under section 501(c)(2) of the act:

(1) The true intent of the act or Uniform Construction Code was incorrectly interpreted.

(2) The provisions of the act do not apply.

(3) An equivalent form of construction is to be used.

(g) A board of appeals may consider the following factors when ruling upon a request for extension of time or the request for variance:

(1) The reasonableness of the Uniform Construction Code's application in a particular case.

(2) The extent to which the granting of a variance or an extension of time will pose a violation of the Uniform Construction Code or an unsafe condition.

(3) The availability of professional or technical personnel needed to come into compliance.

(4) The availability of materials and equipment needed to come into compliance.

(5) The efforts being made to come into compliance as quickly as possible.

(6) Compensatory features that will provide an equivalent degree of protection to the Uniform Construction Code.

(h) If the owner or owner's agent requests a hearing, the board of appeals shall schedule a hearing and notify the owner or owner's agent and building code official of the date, time and place of the hearing.

(i) The board of appeals may:

(1) Deny the request in whole or in part.

(2) Grant the request in whole or in part.

(3) Grant the request upon certain conditions being satisfied.

(j) The board of appeals shall provide a written notice of its decision to the owner and to the building code official.

(k) An owner shall file an appeal, request for variances and request for extension of time relating to accessibility with the Accessibility Advisory Board under § 403.142 (relating to Accessibility Advisory Board).

DEPARTMENT ENFORCEMENT

§ 403.141. Enforcement by the Department.

(a) The Department will conduct plan and specification review and inspections for all State-owned buildings under section 105(b) of the act (35 P. S. § 7210.105(b)). The Department will notify municipalities of all inspections of State-owned buildings and provide municipalities the opportunity to observe inspection of the buildings.

(b) The Department will retain jurisdiction over the provisions of Chapter 11 (Accessibility), and any other accessibility requirements contained in or referenced by the Uniform Construction Code, until a municipality administering and enforcing the Uniform Construction Code obtains the services of a code administrator certified as an accessibility specialist.

(c) The Department will enforce the Uniform Construction Code for all buildings and structures except for residential buildings and utility and miscellaneous use structures in municipalities that have not adopted an ordinance to enforce the act under section 501(a)(1) of the act (35 P. S. § 7210.501(a)(1)).

(d) The Industrial Board will decide petitions for variances and extensions of time and appeals of Department decisions under the Uniform Construction Code. The Industrial Board will hold the first hearing on a petition within 45 days of receipt of the petition.

(e) An owner or owner's agent may file a petition for variance or extension of time or an appeal with the Industrial Board under § 403.122 (relating to appeals, variances and extensions of time). An owner or owner's agent may file an appeal concerning technical infeasibility under Chapter 11 (Accessibility) of the Uniform Construction Code and other accessibility requirements contained in or referenced by the Uniform Construction Code with the Accessibility Advisory Board under § 403.142 (relating to Accessibility Advisory Board).

§ 403.142. Accessibility Advisory Board.

(a) The Secretary has the exclusive power to grant modifications and extensions of time and decide issues of technical infeasibility under Chapter 11 (Accessibility) of the Uniform Construction Code and other accessibility requirements contained in or referenced by the Uniform Construction Code for individual projects under section 301(a)(3) of the act (35 P. S. § 7210.301(a)(3)).

(b) The Accessibility Advisory Board is created with the following powers and duties under section 106 of the act (35 P. S. § 7210.106):

(1) Review all proposed regulations under the act and offer comment and advice to the Secretary on all issues related to accessibility by persons with physical disabilities and enforcement of accessibility requirements.

(2) Review all applications for modifications or variances of Chapter 11 (Accessibility) of the Uniform Construction Code and any other accessibility requirements contained in or referenced by the Uniform Construction Code. The Accessibility Advisory Board will advise the Secretary whether modification or variance should be granted or whether compliance is technically feasible.

(3) Hear appeals from decisions of building code officials and recommend modifications, variances or extensions of time. An appeal of a decision of a building code official shall be based on a claim that the true intent of the act or the Uniform Construction Code was incorrectly interpreted, the act does not apply or an equivalent form of construction is to be used.

(c) The Accessibility Advisory Board will schedule meetings and provide public notice of meetings in accordance with 65 Pa.C.S. §§ 701--716 (relating to the Sunshine Act).

(d) The Accessibility Advisory Board will hear requests for variances or modification, requests for extensions of time and appeals in accordance with the following procedure:

(1) An owner or owner's agent shall file an appeal with the Accessibility Advisory Board on a Department-provided form.

(2) The postmark date or the date of personal service will establish the filing date of the appeal.

(3) An appeal to the Accessibility Advisory Board will automatically suspend an action to enforce an order to correct except where there is an unsafe building, structure or equipment under § 403.84 (relating to unsafe building, structure or equipment).

(4) The Accessibility Advisory Board will make recommendations based upon documents and written brief unless the owner requests a hearing.

(5) If the owner or owner's agent requests a hearing, the Accessibility Advisory Board will schedule a hearing and will provide written notification to the owner or owner's agent and the building code official of the date, time

and place of the hearing. The notification will be made no less than 5 days prior to the hearing unless the owner waives this period.

(6) The Accessibility Advisory Board may consider the following factors when a request for an extension of time or a variance or other appropriate relief is reviewed:

(i) The reasonableness of the regulations or Uniform Construction Code as applied in the specific case.

(ii) The extent to which an extension of time or a variance will subject occupants of the building or structure to conditions which do not comply with the Uniform Construction Code.

(iii) The availability of professional or technical personnel needed to comply with the Uniform Construction Code.

(iv) The availability of materials and equipment needed to comply with the Uniform Construction Code.

(v) The efforts made to safeguard occupants.

(vi) The efforts made to comply with the Uniform Construction Code.

(vii) Compensatory features that will provide an equivalent degree of compliance with the intent of the Uniform Construction Code.

(7) The Accessibility Advisory Board will recommend that the Secretary take one of the following actions:

(i) Deny the request in whole or in part.

(ii) Grant the request in whole or in part.

(iii) Grant the request upon certain conditions being satisfied.

(iv) Grant other appropriate relief.

(8) The Secretary will make a final decision on the request and will issue written notice of the decision to the owner or the owner's agent and the building code official.

(e) An individual, partnership, agency, association or corporation who reasonably believes there is a violation of the accessibility provisions of the act or the Uniform Construction Code by a governmental entity or private owner may file a complaint with the body responsible for enforcement of the

March 2004

Uniform Construction Code under section 501(f) of the act (35 P. S. § 7210.501(f)).

CHAPTER 405. ELEVATORS AND OTHER LIFTING DEVICES

GENERALLY

Sec.

- 405.1. Scope.
- 405.2. Standards.
- 405.3. Permit application.
- 405.4. Approved designs, equipment and devices.
- 405.5. Acceptance inspection.
- 405.6. Certificate of operation.
- 405.7. Periodic inspections.
- 405.8. Periodic testing.
- 405.9. Periodic dynamic testing.
- 405.10. Major repairs, replacements and alterations.
- 405.11. Accident report.
- 405.12. Lumber elevators.

STAGE, ORCHESTRA AND ORGAN CONSOLE ELEVATORS

- 405.31. Applicability.
- 405.32. Platforms.
- 405.33. Shaftway requirements.
- 405.34. Projections and recesses.
- 405.35. Landing doors.
- 405.36. Lifting capacity.
- 405.37. Operating speed.
- 405.38. Operating controls.
- 405.39. Switches.
- 405.40. Pit and pit access.
- 405.41. Single operator requirement.
- 405.42. Additional Requirements.

GENERALLY

§ 405.1. Scope.

(a) *Application of chapter.* This chapter constitutes the Uniform Construction Code technical requirements for elevators and other lifting devices. This chapter applies to the construction, alteration, addition, repair, movement, equipment, removal, maintenance, use and change in use of every elevator and lifting device after April 9, 2004.

(b) *Exceptions.* The Uniform Construction Code does not apply to:

(1) New elevators and lifting devices or renovations to existing elevators and lifting devices for which a permit application was made to the Department before April 9, 2004.

(2) New elevators and lifting devices or renovations to existing elevators and lifting devices for which a contract for design or construction was signed before April 9, 2004.

(3) Elevators and lifting devices solely in residential buildings used by the occupants of a dwelling unit except where the lifting device is used or accessible by the occupants of more than 1 dwelling unit.

(c) *Prior permits and construction.*

(1) A permit issued under valid regulations before April 9, 2004, remains valid and the construction of the elevator or lifting device may be completed in accordance with the approved permit if construction commences by April 9, 2006.

(2) If construction of the elevator or lifting device has not commenced within the time period allowed under paragraph (1), the permit becomes rescinded. The permit holder shall acquire a new permit under section 304(c)(2) of the act (35 P. S. § 7210.304(c)(2)) before construction.

(3) An elevator or lifting device that was issued a certificate of operation by the Department before April 9, 2004, may remain in use if the owner maintains the elevator or lifting device in accordance with a previous Department permit or approval, the owner complied with the regulations in effect when the certificate of operation was issued and the owner complies with the applicable requirements of §§ 405.7--405.9 (relating to periodic inspections; periodic testing; and periodic dynamic testing).

§ 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):

(1) "ASME A17.1-2000" with "A17.1a-2002" addenda:

(i) Part 1 (General).

(ii) Part 2 (Electric elevators).

(iii) Part 3 (Hydraulic elevators).

(iv) Part 4 (Elevators with other types of driving machines).

(v) Part 5 (Special application elevators).

(vi) Part 6 (Escalators and moving walks).

(vii) Part 7 (Dumbwaiters and material lifts).

(viii) Part 8 (General requirements).

(ix) Part 9 (Standard codes and specifications).

(2) "ASME B20.1-2000" for vertical and inclined reciprocating conveyors without automatic transfer devices.

(3) "ASME A90.1-1997" including "A90.1a-1999" and "A90.1b-2001" addenda for belt man-lifts.

(4) "ANSI B77.1-1999" 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).

(6) Electric wiring and apparatus shall comply with the "ICC Electrical Code."

(b) The following sections of "ASME A17.1-2000" with "A17.1b-2002" addenda are not adopted as the Uniform Construction Code:

(1) Section 5.3 (Private residence elevators).

(2) Section 5.4 (Private residence inclined elevators).

- (3) Section 5.8 (Shipboard elevators).
- (4) Section 5.9 (Mine elevators).
- (5) Section 7.7 (Automatic transfer devices).
- (6) Section 7.8 (Power dumbwaiter with automatic transfer devices).
- (7) Section 7.9 (Electric material lifts with automatic transfer devices).
- (8) Section 7.10 (Hydraulic material lifts with automatic transfer devices).
- (9) Section 7.11 (Material lifts with obscured transfer devices).
- (10) Section 8.6.7.3 (Private residence elevator).
- (11) Section 8.6.7.4 (Private residence inclined elevators).
- (12) Section 8.6.7.8 (Shipboard elevators).
- (13) Section 8.6.7.9 (Mine elevators).
- (14) Section 8.6.9.2 (Material lifts and dumbwaiters with automatic transfer devices).
- (15) Section 8.7.5.3 (Private residence elevators).
- (16) Section 8.7.5.4 (Private residence inclined elevators).
- (17) Section 8.7.5.8 (Shipboard elevators).
- (18) Section 8.7.5.9 (Mine elevators).
- (19) Section 8.7.7.3 (Material lifts and dumbwaiters with automatic transfer devices).
- (20) Section 8.10.5.2 (Private residence elevators and lifts).
- (21) Section 8.10.5.5 (Material lifts and dumbwaiters with automatic transfer devices).
- (22) Section 8.10.5.8 (Shipboard elevators).
- (23) Section 8.11.5.2 (Private residence elevators and lifts).

(24) Section 8.11.5.5 (Material lifts and dumbwaiters with automatic transfer devices).

(25) Section 8.11.5.8 (Shipboard elevators).

(c) The following portions of "ASME B20.1 2000" are not adopted as the Uniform Construction Code:

(1) Section 3 (Intent).

(2) Section 5.14 (Hoppers and chutes).

(3) Section 6.1 (Belt conveyors--fixed in place).

(4) Section 6.2 (Bucket conveyors).

(5) Section 6.3 (Chain conveyors).

(6) Section 6.4 (En masse conveyors).

(7) Section 6.5 (Flight and apron conveyors--bulk material).

(8) Section 6.7 (Live roller conveyors--belt or chain driven).

(9) Section 6.8 (Mobile conveyors).

(10) Section 6.9 (Portable conveyors, extendible belt conveyors and car unloaders).

(11) Section 6.10 (Pusher bar conveyors).

(12) Section 6.11 (Roller and wheel conveyors).

(13) Section 6.12 (Screw conveyors).

(14) Section 6.13 (Shuttle conveyors, belt trippers and transfer cars).

(15) Section 6.14 (Skip hoists--bulk materials).

(16) Section 6.15 (Slat conveyors and roller slat conveyors).

(17) Section 6.16 (Suspended vertical tray conveyors).

(18) Section 6.17 (Tow conveyors--in the floor).

(19) Section 6.18 (Trolley conveyors and power and free conveyors).

(20) Section 6.19 (Vertical articulated conveyors).

(21) Section 6.20 (Vertical chain opposed shelf type conveyors).

(d) The following portions of "ASME A18.1-1999" with "A18.1a-2001" addenda are not adopted as the Uniform Construction Code:

(1) Part V (Private residence vertical platform lifts).

(2) Part VI (Private residence inclined platform lifts).

(3) Part VII (Private residence incline stairway chairlifts).

(e) This chapter applies when there is a conflict with a code or standard related to elevators or lifting devices.

§ 405.3. Permit application.

(a) An owner of an elevator or lifting device or an authorized agent shall apply to the Department for a permit before the construction, alteration, replacement or repair of an elevator or lifting device.

(b) An owner or owner's agent shall submit four copies of a permit application and supporting documents to the Department for review. The application and supporting construction documents shall be submitted in Department-approved media and clearly detail the location, nature and extent of the proposed construction and its compliance with the Uniform Construction Code.

(c) The Department may suspend or revoke a permit when the permit was issued erroneously, on inaccurate, incorrect or incomplete information or issued in violation of the Uniform Construction Code. The Department may charge an applicant a new application and inspection fee when a previous permit was suspended or revoked based upon inaccurate, incomplete or incorrect information provided by the permit applicant.

(d) A permit becomes invalid unless construction work is commenced within 180 days after its issuance or if the work is suspended or abandoned for a period of 180 days after it is commenced. The Department may grant written extensions of time for periods of 180 days each. A permit remains valid for no more than 5 years.

(e) The Department will grant or deny a permit in whole or in part within 30 business days of the filing date of a complete application. The Department will provide written notification to the applicant for applications denied in whole or in part.

(f) The Department will place the written or stamped notation "Reviewed and Approved for Code Compliance" on the documents accompanying the permit application. The Department will keep three sets of the construction documents and send one set of construction documents to the permit applicant.

(g) An owner or owner's agent may request a variance or appeal the code administrator's decision to the Industrial Board under § 403.122 (relating to appeals, variances and extensions of time). The appeal shall be based on a claim that the true intent of the act or the Uniform Construction Code were incorrectly interpreted, the act does not fully apply or an equivalent form of construction is to be used.

(h) A permit is not valid until the Department collects the required fees under § 401.2 (relating to Department fees).

§ 405.4. Approved designs, equipment and devices.

A platform, car, cabin or chair safety device may be installed after it receives a Department-issued certificate of acceptance. An applicant for a certificate of acceptance shall meet the following requirements:

(1) The manufacturer, designer or engineer of the platform, car, cabin or chair safety device shall submit the design to the Department.

(2) The Department will observe the operation of the device for compliance with the Uniform Construction Code before use of the device in this Commonwealth.

(3) The Department will issue a certificate of acceptance after it observes successful testing of the device.

§ 405.5. Acceptance inspection.

The Department will conduct an acceptance inspection to confirm compliance with the Uniform Construction Code before a new elevator or lifting device or an elevator or lifting device under repair is put into service.

§ 405.6. Certificate of operation.

(a) An elevator or lifting device may not be operated unless the Department issues a certificate of operation for the elevator or other lifting device. The Department will issue a certificate of operation for the elevator or other lifting device if it passes inspection.

(b) A certificate of operation is valid for 24 months from the issue date for equipment that requires a 6-month periodic inspection under § 405.7 (relating to periodic inspections). A certificate of operation is valid for 48 months from the issue date for equipment requiring a 12-month periodic inspection cycle under § 405.7.

(c) A certificate of operation may remain valid for an additional 30 days after its expiration date if a periodic inspection is conducted within 30 days of the certificate's expiration date. A certificate of operation is not valid until the Department collects the required fee under § 401.2 (relating to Department fees).

(d) The certificate of operation or a copy of the certificate of operation for equipment with a machine room shall be posted in the elevator car or other lifting device enclosure, or attached to the controller in the machine room. The certificate of operation for escalators, moving walks and other equipment without a machine room shall be made available to a construction code official during a periodic inspection.

§ 405.7. Periodic inspections.

(a) A construction code official of the Department or a third-party agency shall conduct periodic inspections and document compliance with the Uniform Construction Code at intervals that do not exceed 6 months for the following equipment:

- (1) Electric elevator.
- (2) Hydraulic elevator.
- (3) Escalator.
- (4) Belt man-lift.
- (5) Lumber elevator.
- (6) Moving walk.
- (7) Orchestra elevator.
- (8) Organ elevator.
- (9) Limited use/limited application elevator.
- (10) Special purpose personnel elevator.

- (11) Stage elevator.
- (12) Power sidewalk elevator.
- (13) Elevators used for construction.
- (14) Inclined elevator.
- (15) Rooftop elevator.

(b) A construction code official shall perform periodic inspections of all other lifting devices at intervals that do not exceed 12 months. A construction code official shall inspect a lifting device that is used on a seasonal basis before the beginning of the season of operation.

(c) A construction code official who performed a periodic inspection shall complete an inspection report containing all of the following information:

- (1) The inspection results.
- (2) The day, month and year of the inspection.
- (3) The beginning and conclusion times of the inspection.
- (4) The construction code official's certification number.

(5) The construction code official's signature. An electronic signature may be used.

(d) A construction code official who performed a periodic inspection shall insure that the following information is completed on the certificate of operation:

- (1) The day, month and year of inspection.
- (2) The construction code official's certification number.
- (3) The construction code official's signature.

(e) A construction code official shall submit the results of routine inspections to the Department within 15 days of the inspection in a format acceptable to the Department.

(f) A construction code official shall notify the Department if a lifting device failed a periodic inspection within 1 business day from the inspection.

§ 405.8. Periodic testing.

(a) The following periodic testing under "ASME A17.1 2000" with "A17.1a-2002" addenda is required. A construction code official shall witness all of the testing:

(1) Category One under section 8.11.2.2 at 5-year intervals.

(2) Category Five under section 8.11.2.3 at 5-year intervals.

(3) Category One under section 8.11.3.2 at 3-year intervals. Periodic inspection and testing shall be phased in over a 3-year period as follows:

(i) Elevators installed before 1973 shall receive periodic inspection and testing on or before April 9, 2005.

(ii) Elevators installed between 1973 and 1992 shall receive periodic inspection by April 9, 2006.

(iii) Elevators installed after 1992 shall receive periodic inspection and testing by April 9, 2007.

(4) Category Three under section 8.11.3.3 at 5-year intervals.

(5) Category Five under section 8.11.3.4 at 5-year intervals.

(6) Category One under section 8.11.4.2 at 3-year intervals.

(7) Other equipment under section 8.11.5 at 5-year intervals as follows:

(i) Sidewalk elevators under section 8.11.5.1.

(ii) Hand elevators under section 8.11.5.3.

(iii) Dumbwaiters under section 8.11.5.4.

(iv) Special purpose personnel elevators under section 8.11.5.6.

(v) Inclined elevators under section 8.11.5.7.

(vi) Screw column elevators under section 8.11.5.9.

(vii) Rooftop elevators under section 8.11.5.10.

(viii) Rack and pinion elevators under section 8.11.5.11.

(ix) Limited use and limited application elevators under section 8.11.5.12.

(x) Elevators used for construction under section 8.11.5.13.

(b) A construction code official shall witness each test enumerated in this section.

(c) Inspection and testing under "ASME A.18.1-1999" with "A18.1a-2001" Addenda are required at the following intervals:

(1) Testing under section 10.3.1 shall be conducted at 5-year intervals.

(2) Testing under section 10.3.2 shall be conducted at 5-year intervals.

(3) Testing under section 10.3.3 shall be conducted at 5-year intervals.

(d) A lumber elevator equipped with platform safety devices shall be tested with rated load at intervals that may not exceed 5 years.

(e) Stage, orchestra and organ lifts equipped with a platform safety device shall be tested with rated loads at intervals that may not exceed 5 years.

(f) Vertical reciprocating conveyers with a platform safety device shall be tested at intervals that do not exceed 5 years.

(g) A construction code official shall complete a test report after the official witnesses a periodic test in a format acceptable to the Department. The construction code official shall submit the report to the Department within 15 days of witnessing the tests. All of the following information is required in the report:

(1) The test results.

(2) The day, month and year of the test.

(3) The beginning and concluding times of the test.

(4) The construction code official's signature. The construction code official may use an electronic signature.

(h) A metal tag shall be permanently attached on an elevator that successfully passes the test under this section in accordance with all of the following:

(1) The metal tag shall be furnished by the company that performed the testing.

(2) The metal tag shall be attached to the elevator safety-releasing carrier for safety tests or to the controller for all other tests.

(3) The tag shall contain all of the following:

(i) The day, month and year of the test.

(ii) The name of the company that performed the test.

(iii) The type of test performed.

§ 405.9. Periodic dynamic testing.

(a) The following periodic dynamic testing shall be conducted under "ANSI B77.1-1999":

(1) Aerial tramways dynamic testing under section 2.3.3.1.2.

(2) Detachable grip aerial lifts dynamic testing under section 3.3.3.1.2.

(3) Fixed grip aerial lifts dynamic testing under section 4.3.3.1.2.

(b) A construction code official shall witness all periodic dynamic testing under this section.

(c) A construction code official shall complete and submit a test report to the Department within 15 days of witnessing a periodic dynamic test. The report shall be in a format acceptable to the Department and contain all of the following information:

(1) The test results.

(2) The day, month and year of test.

(3) The beginning and concluding times of test.

(4) The construction code official's signature. The construction code official may use an electronic signature.

§ 405.10. Major repairs, replacements and alterations.

(a) Repairs, replacement and alterations of elevators or other lifting devices shall comply with the following sections of "ASME A17.1-2000" with "A17.1a-2002" addenda:

- (1) Section 8.6.2 (Repairs).
- (2) Section 8.6.3 (Replacements)
- (3) Section 8.7 (Alterations).

(b) The requirements of subsection (a) apply to major repairs, replacements and alterations performed on other types of lifting devices that are not referenced in "ASME A17.1-2000" with "A17.1a-2002" addenda.

(c) An elevator or lifting device shall be taken out of service when a major repair, replacement or alteration is performed upon it. The owner or owner's agent shall provide written notification to the Department when the major repair, replacement or alteration is completed. The elevator or lifting device may be returned to service when it passes a Department inspection.

§ 405.11. Accident report.

(a) An owner of an elevator or lifting device or an authorized agent shall submit an accident report to the Department if the elevator or lifting device is involved in an accident resulting in any of the following:

- (1) Fatal injury or hospitalization to a person.
- (2) Damage to the elevator or lifting device rendering it unsafe under § 403.84 (relating to unsafe building, structure or equipment).

(b) The owner or authorized representative shall submit the accident report on a Department-prescribed form, which must be received by the Department within 24 hours of the accident.

(c) The Department may order an investigation of the accident.

(d) An elevator or lifting device that was involved in a fatal accident may not return to operation until the Department provides approval.

(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.

§ 405.12. Lumber elevators.

(a) A lumber elevator is a platform that is used to raise or lower stacked lumber under the requirements of this section. An individual may not ride a lumber elevator.

(b) The shaftway is enclosed on all sides that are not used for loading or unloading with flush partitions that are at least 6 feet high. Movable bars or railings are required to protect all points of loading and unloading, unless gates are provided. Flaring is at an angle of at least 75° from the horizontal and shall protect all shearing points in the shaftway excluding each loading and unloading landing.

(c) Gates are required to protect all points of loading and unloading when the platform's vertical travel exceeds 6 feet or when there are two or more landings. The following types of automatic and semiautomatic gates may be used:

(1) Semiautomatic vertical-rising gates.

(2) Fully automatic vertical-rising gates only at terminal landings.

(3) Manually operated swinging or horizontal gates with locking devices and electric brakes.

(4) Department-approved, power-operated horizontal gates.

(d) A locking device shall comply with the following requirements:

(1) An automatic locking device shall be placed on, or attached to a manually operated gate. The locking device shall prevent the normal operation of the platform when the gate is open and unsecured. The locking device shall prevent the opening of the gate when the car is away from the landing.

(2) A shield shall be installed on openwork gates and shall be of sufficient size to prevent access to the lock from the outside of the shaftway.

(e) The shaftway shall have a pit with a depth of at least 2 feet from the lowest point of the underside of the platform framing to the pit floor or highest projection when the platform is at its lowest limit of travel. Toe guards, guide shoes or rollers attached to the platform and buffers or bumpers may extend into this space.

(f) Substantial guides of either wood or steel are required for installation on lumber elevators.

(g) Lifting capacity shall equal a live load of at least 50 pounds per square foot of platform floor area. The gross weight of the movable platform shall include railings, aprons, wirings, conduits, outlets and every item that is permanently attached to the platform and its rated lifting capacity.

(h) The lifting speed of a lumber elevator may not exceed 15 feet per minute.

(i) A lumber elevator shall be equipped with operating switches that meet the following requirements:

(1) An operating switch shall be located where the entire shaftway is visible when gates are not installed.

(2) An operating switch shall be a continuous pressure switch.

(3) A manually operated emergency stop switch shall be placed adjacent to the elevator's operating switches, driving machines, pit entrances, machine controller and landings. An emergency stop switch shall be a manually reset switch and cannot be dependent upon springs for proper operation.

(4) An emergency stop switch shall be red. No other switch may be red.

(5) Operating switches shall be labeled by function.

(j) Reverse phase protection is required when alternating current is used.

(k) Elevator screws shall be directly connecting with worm or beveled gears. Gears shall be enclosed in a housing.

(l) A lumber elevator that is not supported or operated by screws, plungers or similar means shall have approved platform safeties capable of stopping and holding the platform at any point of its travel and its rated lifting capacity.

(m) The motor, controller and brake shall be located in a lighted room outside of the shaftway, unless the devices are located in the pit. The lumber elevator shall be equipped with stone or masonry piers or columns capable of absorbing the impact of a full-loaded platform when the motor and controller are located in the pit.

(n) A lumber elevator shall be equipped with normal terminal limit switches located in the shaftway or stop motion devices on the operating machine and arranged to automatically bring the platform to rest at either terminal landing.

(o) Final terminal limit switches shall be installed and connected so the switch will function if a lumber elevator runs by the normal terminal limit switch. Final terminal limit switches will automatically shut off the power, apply the brake and prevent the operation of the lumber elevator in either direction until adjustments are made to return the lumber elevator to normal operation. Final terminal limit switches shall be located in the shaftway.

(p) A slack cable or slack chain device shall be installed on all winding drum or sprocket power-driven lumber elevator machinery. The device shall automatically shut off the power, apply the brake and stop the machinery when the platform is obstructed in its descent.

(q) A lumber elevator shall be equipped with an approved and enclosed fused main line switch or an approved and enclosed circuit breaker switch. The switch shall be located adjacent to the entrance door in the machine room when the motor and controller are located in a machine room. The switch shall be located outside of the shaftway and adjacent to the pit access door when the motor and controller are located in the pit.

(r) A motor or controller shall be equipped with a second device for disconnection when the motor or controller is not visible from the disconnection equipment required in subsection (q). The second disconnection device shall be equipped to accept a padlock that can lock the device in an "open" and "off" position.

(s) Lighting shall be provided in all machine spaces and pits within the shaftway and landings. The light switch shall be mounted at the entryway to a machine space and pit.

(t) A lumber elevator shall be equipped with a door that allows access to the pit when the motor or controller is located in the pit. A pit access door is to meet all of the following requirements:

(1) A pit access door shall be located below the bottom of the platform when the platform is at its lowest limit of travel.

(2) A pit access door shall be at least 30 inches by 30 inches in size, self-closing and self-locking.

(3) A pit access door shall have a switch to prevent operation of the elevator while the pit access door is open.

(4) An emergency stop switch shall be installed on the strike side of each pit access door.

(5) A switch for operating the pit lights shall be installed on the strike side of all pit access doors.

(6) A sign shall be located on the exterior strike side of each pit access door with the notation, "CAUTION--Elevator Pit Access Door--Authorized Personnel Only." The sign lettering shall be a minimum of 1/4 inch in width and 1 1/2 inches in height. The color of the lettering shall contrast with the color of the access door.

(7) An owner or owner's agent shall have sole possession of keys to each pit access door.

(u) A lumber elevator platform shall have a steel frame designed with a minimum safety factor of six based on the highest rating of either the rated lifting load or the rated static load, uniformly distributed.

(v) A platform shall be equipped with an apron on all its sides. When the travel distance of a lumber elevator extends above the top of the surrounding floor level, the apron shall have sufficient depth to enclose the space between the floor level and the under side of the platform when the platform is at its travel limit.

(w) As part of the initial inspection, the elevator shall be loaded to rated lifting capacity and operated throughout its entire travel. Platform safeties are to be tested with the maximum rated lifting capacity.

STAGE, ORCHESTRA AND ORGAN CONSOLE ELEVATORS

§ 405.31. Applicability.

The following types of elevators shall meet the requirements of this section and §§ 405.32--405.41:

- (1) A stage elevator consisting of a section of the stage arranged to be raised and lowered above and below the stage in a vertical direction.
- (2) An orchestra elevator consisting of a platform arranged to be raised and lowered in a vertical direction.
- (3) An organ console elevator used for raising and lowering an organ console, including the organist in a vertical direction.

§ 405.32. Platforms.

- (a) A stage, orchestra or organ console elevator platform shall be comprised of steel frame construction and designed with a safety factor of at least six based on the highest rating of either the rated lifting load or the rated static load uniformly distributed.
- (b) When the travel of a stage, orchestra or organ console elevator extends above the top of the shaftway enclosure, the platform shall be equipped with an apron at least as deep as the space between the top of the shaftway enclosure and the underside of the platform when the platform is at its limit of travel.

§ 405.33. Shaftway requirements.

- (a) The inside surface of a shaftway shall have a smooth finish within the limits of travel without any projections or recesses except for landing entrances, guides and guide brackets, vertical slots required for concealed guides, junction boxes and conduits for wiring, seating cart storage areas, orchestra areas and piano storage areas.
- (b) Shaftway guide rails shall be made of steel.
- (c) Adjacent lift sides shall be equipped with aprons, railings and toeboards and pressure-sensing strips that are necessary to avoid shearing and fall hazards when elevators or other lifts under this section are installed in the same shaftway.

§ 405.34. Projections and recesses.

Projections or recesses for landing entrances, junction boxes and conduits for wiring, seating cart storage areas, orchestra areas and piano storage areas shall have the following protection:

(1) Metal bevel plates shall protect the underside and topside of projections and the underside of all recesses. The plates shall extend from the edge of the projection or recess to the wall. The beveled angle may not be less than 75° relative to a horizontal position. Instead of plates, the bevel surfaces may be made of concrete and troweled to a smooth finish. Pressure sensing strips meeting the requirements in paragraph (2) may be used instead of beveled plates.

(2) Pressure sensing strips shall be placed on the underside of the platform on sides where there is a projection or recessed opening and on an apron attached to the platform. Pressure sensing strips shall meet the following requirements:

(i) A strip shall be interconnected to the operating and controlling circuit of the elevator.

(ii) A strip shall detect an obstruction that exerts a force of 5 pounds or greater per square inch.

(iii) The elevator shall immediately stop and automatically reverse direction for travel of 2--4 inches when a strip detects an obstruction. The pressure strips may automatically reset once the elevator has stopped its reverse travel.

§ 405.35. Landing doors.

(a) Swinging doors installed at the bottom landing of the shaftway shall open outward.

(b) Shaftway landing doors shall be equipped with a Department-approved interlock. The interlock shall:

(1) Secure the platform in the stop position or place the power of controlling the elevator beyond the operator's control while any landing door is open.

(2) Operate in conjunction with a normally closed electrical valve operating system when used for maintained pressure hydraulic elevators.

(c) A landing door may unlock only when the platform is stopped at the level where the landing doors are located.

(d) Landing doors shall open manually from inside the shaftway regardless of the platform's position.

§ 405.36. Lifting capacity.

(a) The lifting capacity of an orchestra or organ console elevator shall equal a live load of at least 25 pounds per square foot of floor area of the platform.

(b) The lifting capacity of a stage elevator shall equal a live load of at least 75 pounds per square foot of floor area of the platform.

§ 405.37. Operating speed.

Operating speed of an orchestra or organ console elevator may not exceed 30 feet per minute.

§ 405.38. Operating controls.

Operating controls shall be located so that the operator may view the platform and load throughout their entire travel. Operating controls are governed by the following:

(1) Operating controls shall be continuous pressure switches.

(2) Detachable pendent switches that plug into the platform or at an area other than the platform may be installed as operating controls if the operator can view the platform and load throughout their entire travel.

(3) Emergency stop switches that comply with all of the following:

(i) Manually operated emergency stop switches shall be located adjacent to the operating controls, driving machines, pit entrances, machine controller, orchestra areas and recessed storage areas located within the shaftway.

(ii) Emergency stop switches shall be manually reset and not depend upon springs for proper operation.

(iii) Emergency stop switches shall be red. No other switch may be red.

(iv) An emergency stop switch shall be installed on an organ console elevator in a location accessible to the organist.

(5) Operating controls shall be labeled by function.

(6) A key is required for use of the operating controls other than emergency stop switches.

(7) A stage, orchestra or organ console elevator that intersects with other stage, orchestra, organ console elevators, storage areas or orchestra areas below the stage level shall be equipped with a constant pressure pushbutton switch which meets the following requirements:

(i) The additional switch shall be located to permit an unobstructed view of the intersecting area.

(ii) The switch shall be held in the closed or "run" position to complete the operating circuit and permit the operator's controls to function.

(iii) Release of the switch will stop the elevator immediately.

(iv) An additional switch is not required for elevators that are completely enclosed in an operating shaftway.

§ 405.39. Switches.

(a) An elevator shall be equipped with normal terminal limit switches located in the shaft way or a stop motion device on the operating machine. The switches or device shall automatically bring the platform to rest at either terminal landing.

(b) Final terminal limit switches shall be installed in the shaftway and meet the following requirements:

(1) The switches shall be connected so that the functioning of the switch will occur if the elevator runs by the normal terminal limit switch.

(2) A final terminal limit switch is to automatically shut off power, apply the brake and prevent the operation of the elevator in either direction until adjustments are made to return the elevator to normal operation.

(c) An approved and enclosed fused main line switch or an approved circuit breaker switch shall be installed to disconnect the elevator and meet the following requirements:

(1) The switch shall be located adjacent to the entrance door in a machine room containing the motor and controller.

(2) The switch shall be located outside the shaftway and adjacent to the pit access door when the motor and controller are located in the pit.

§ 405.40. Pit and pit access.

(a) The pit shall be equipped with stone or masonry piers or columns or buffers capable of absorbing the impact of a fully loaded platform while maintaining a minimum refuge space of 2 feet throughout the pit area.

(b) A pit access door has to meet all of the following requirements:

(1) A pit access door shall be a minimum of 30 inches by 30 inches in size, self-closing and self-locking.

(2) Have a switch to prevent the operation of the elevator while the pit access door is open.

(3) An emergency stop switch shall be installed on the strike side of each pit access door.

(4) A switch for operating the pit lights shall be installed on the strike side of each pit access door.

(5) Contain a sign located on the exterior strike side of all pit access doors with the notation, "CAUTION--Elevator Pit Access Door--Authorized Personnel Only." The sign lettering is to be a minimum of 1/4 inch in width and 1 1/2 inches in height. The color of the lettering shall contrast with the color of the access door.

(6) An owner or owner's agent shall have sole possession of keys to each access door.

(c) A shaftway shall have a pit that meets all of the following requirements:

(1) Pit depth shall be at least 2 feet from the lowest point of the underside of the platform framing to the pit floor or highest floor projection when the platform is at its lowest limit of travel. Toe guards, guide shoes or rollers attached to the platform and buffers or bumpers may extend into this space.

(2) Clearance between the lowest point of an apron, guide shoe or rollers on the underside of the platform and any portion of the pit floor shall be at least 6 inches when the platform has reached its lowest limit of travel.

(3) Pit floor area directly beneath any apron area of the platform shall be marked with paint of at least two contrasting colors to a minimum width of 12 inches past the inside edge of the apron, guide shoe or rollers

(d) A door shall be installed to provide access to a pit when the motor or controller for a stage, orchestra or organ console elevator is located in the pit by one of the following means:

(1) A door below the bottom of the platform when the platform is at its lowest limit of travel.

(2) A door that opens outward in the platform.

(3) The pit shall be equipped with a ladder for gaining access to the pit through this access door.

(4) The ladder and access door shall be arranged to secure the ladder to the platform during access to the pit.

(5) The ladder shall extend from the platform to the pit floor regardless of the location of the platform in the shaftway.

§ 405.41. Single operator requirement.

A single operator is required to control operation of a stage, orchestra or organ console elevator under all of the following conditions:

(1) The operator and designated material handlers are the only persons that may ride on a stage or orchestra elevator.

(2) The operator and organist are the only persons that may ride on an organ console elevator. An organist may be the operator of the elevator if he receives adequate training on the operation of the elevator and all its controls.

(3) An operator is required to work with an assistant when using a stage, orchestra or organ console elevator that intersects with another stage, orchestra, organ console elevator, storage areas or orchestra areas below the stage level. The assistant shall insure that there are no obstructions in the path of the elevator being operated. The assistant shall always use a two-way communication device with the operator.

§ 405.42. Additional requirements.

(a) Railings and toeboards shall be provided at floor levels when the elevator is not at floor level. The railing and toeboard are to be

interconnected to the operating circuit so that if any portion of the rail and toeboard is not in its proper placement, the elevator cannot operate.

(b) A key shall be located at the lowest floor in a container with a glass surface. This key shall open a landing door regardless of the location of the platform.

(c) A plate attached to the equipment controller shall contain the manufacturer's listed rated lifting capacity and maximum static load.

(d) The gross weight of the movable platform shall be posted on the controller and will include railings, aprons, wiring, conduits, outlets or an item that is permanently attached to the platform and related lifting capacity.

(e) Reverse phase protection shall be provided when alternating current is used.

(f) Elevator screws are to be directly connecting with worm or beveled gears. Gears shall be enclosed in a housing.

(g) A stage, orchestra or organ console elevator that is not supported or operated by screws, plungers or similar means shall have platform safeties capable of stopping and holding the platform with a full-rated load at any point of its travel.

(h) The motor controller and brake shall be located in a lighted room outside the shaftway, unless the devices are located in the pit.

(i) A slack cable or slack chain device shall be installed on all winding drum or sprocket power-driven stage, orchestra or organ console elevator machinery. The device shall automatically shut off the power, apply the brake and stop the machinery when the platform is obstructed in its descent.

(j) A motor or controller shall be equipped with a second device for disconnection when the motor or controller is not visible from the mainline disconnect switch.

(k) Lighting shall be provided in all machine spaces, pits, storage areas, orchestra areas and landings within the shaftway. A light switch shall be mounted at the entryway to each area.