

RULES AND REGULATIONS

Title 34—LABOR AND INDUSTRY

DEPARTMENT OF LABOR AND INDUSTRY [34 PA. CODE CHS. 401, 403 AND 405] Uniform Construction Code

Under sections 302 and 304 of the Pennsylvania Construction Code Act (act) (35 P.S. §§ 7210.302 and 7210.304), the Department of Labor and Industry (Department) amends §§ 401.1, 403.21 and 405.2 (relating to definitions; Uniform Construction Code; and standards) to read as set forth in Annex A.

Background

The act mandates a process for the adoption of updated building codes issued by the International Code Council (ICC). Although most building code provisions are reviewed by the Pennsylvania Uniform Construction Code Review and Advisory Council under section 107 of the act (35 P.S. § 7210.107), the General Assembly has excluded accessibility provisions of the International Building Code from review in section 304 of the act. The act of April 25, 2011 (P.L. 1, No. 1) (Act 1) amended the act to require that the Department regularly adopt updated accessibility standards for the construction, repair or alteration of buildings in this Commonwealth by December 31 of the year of issuance by the ICC. The ICC issued new accessibility standards in 2015. This final-omitted rulemaking will be effective upon publication in the *Pennsylvania Bulletin*. Adoption of the current accessibility standards will ensure that commercial buildings meet current standards for accessible and usable facilities.

The purpose of these regulations is to adopt recognized international standards for accessible and usable buildings and structures, as directed by Act 1. The final-omitted rulemaking brings the Commonwealth's standards for accessible and usable buildings to the current state of the art and conforms to standards issued by the United States Department of Justice under the Americans with Disabilities Act (42 U.S.C.A. §§ 12101—12213). Adopting Chapter 11 and Appendix E of the International Building Code of 2015 for new construction and the accessibility provisions in the International Existing Building Code of 2015 for the alteration or modification of existing buildings will allow the Department to comply with the directive of the act to update accessibility requirements in the Uniform Construction Code (UCC) with successor codes.

In addition, section 304 of the act requires the Department to include the latest American National Standards Institute (ANSI) standards applicable to the operation of ski lifts prescribed in the American National Standards for Passenger Tramways, Aerial Tramways, Aerial Lifts, Surface Lifts and Tows, ANSI B77.1. Section 405.2 formerly recognized ANSI B77.1-2006. However, the latest ANSI B77.1 standards are in ANSI B77.1-2011, American National Standard for Passenger Ropeways—Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors—Safety Requirements, as supplemented by ANSI B77.1a-2012 (collectively ANSI B77.1-2011). Accordingly, the Department must adopt ANSI B77.1-2011 to bring the Commonwealth's standards for the operation of ski lifts

into compliance with the current state of the art and recognized standards, as mandated by the act.

Purpose and Explanation of this Final-Omitted Rulemaking

The Department, under section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204(3)), known as the Commonwealth Documents Law (CDL), and 1 Pa. Code § 7.4(3) (relating to omission of notice of proposed rulemaking), finds that notice of proposed rulemaking under the circumstances is unnecessary and impractical, and therefore may be omitted.

The Department's justification for utilizing the final-omitted rulemaking process is that the only changes being made are updates of the regulations to the latest standards as mandated by the act. The Department does not have discretion in the promulgation of these regulations. Section 304 of the act requires the Department, by December 31 of the year of the issuance of a new triennial International Building Code, or its successor building code, to promulgate regulations adopting the new accessibility codes as the UCC. The ICC updated the international codes and issued 2015 editions. This final-omitted rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

Similarly, section 302(a) of the act requires the inclusion of the latest ANSI standards applicable to the operation of ski lifts. The latest standards are ANSI B77.1-2011, which were issued in 2011 and supplemented in 2012.

Under section 204(3) of the CDL, the Department may omit the procedures for proposed rulemaking in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) if the specified procedures are impracticable, unnecessary or contrary to the public interest. Proposed notice of this rulemaking is impracticable and unnecessary because the regulations are limited to implementing, without change, modification or interpretation, the regulations to include the latest versions of Nationally recognized standards in the Pennsylvania UCC as mandated by the act.

On February 12, 2016, the Department submitted the final-omitted rulemaking to the Office of Attorney General to conduct a pre-review of the Department's justification for submittal as a final-omitted rulemaking under section 204(3) of the CDL. On February 16, 2016, the Office of Attorney General notified the Department that it approved the submission of the updates to these regulations as final-omitted rulemaking.

Statutory Authority

This final-omitted rulemaking is issued under the authority of section 304(a)(3) of act, which provides that the Department shall promulgate regulations updating accessibility standards by adopting Chapter 11 and Appendix E of the International Building Code of 2012, or its successor, by December 31 of the year of issuance of the new code. The latest successor code to the 2012 Code is the International Building Code of 2015 for new construction and the accessibility provisions contained in the International Existing Building Code of 2015 for the alteration or modification of existing buildings. This final-omitted rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

Section 302(a)(1) and (2) of the act requires the promulgation of the latest ANSI standards applicable to the operation of ski lifts, which is ANSI B77.1-2011.

Affected Persons

This final-omitted rulemaking affects owners of new commercial buildings or commercial buildings undergoing addition, renovation or repair. The final-omitted rulemaking also ensures that persons with physical disabilities will be able to access and use commercial buildings in this Commonwealth. This final-omitted rulemaking also affects operators, designers and manufacturers of ski lifts and ensure compliance with the latest standards.

Fiscal Impact

The Commonwealth will incur minimal additional costs under this final-omitted rulemaking. The costs are related to the purchase of updated code books for Commonwealth personnel. The cost to enforce this final-omitted rulemaking will be the same as the current regulations. This final-omitted rulemaking will not increase administrative, enforcement or legal activity.

Reporting, Recordkeeping and Paperwork Requirements

This final-omitted rulemaking will not require the creation of new forms or reporting requirements. Current forms may be updated.

Sunset Date

A sunset date is not appropriate for these regulations. The act directs the Department to update these regulations with each new successor code edition.

Effective Date

This final-omitted rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

The contact person is Jennifer L. Berrier, Director, Bureau of Occupational and Industrial Safety, Department of Labor and Industry, 16th Floor, Labor and Industry Building, 651 Boas Street, Harrisburg, PA 17121, jerberrier@pa.gov.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on February 29, 2016, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Committee on Labor and Industry and the House Labor Relations Committee. On the same date, the regulations were submitted to the Office of the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on March 30, 2016, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on March 31, 2016, and approved the final-omitted rulemaking.

Findings

The Department finds that notice of proposed rulemaking under the circumstances is impractical and unnecessary and therefore notice of proposed rulemaking may be omitted under section 204(3) of the CDL.

Order

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

(a) The regulations of the Department, 34 Pa. Code Chapters 401, 403 and 405, are amended by amending

§§ 401.1, 403.21 and 405.2 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(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 become effective effect upon publication in the *Pennsylvania Bulletin*.

KATHY M. MANDERINO,
Secretary

(*Editor’s Note:* See 46 Pa.B. 1979 (April 16, 2016) for IRRC’s approval order.)

Fiscal Note: 12-102. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 34. LABOR AND INDUSTRY

PART XIV. UNIFORM CONSTRUCTION CODE

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

§ 401.1. Definitions.

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

* * * * *

International Building Code—Chapters 2—10, 12—29 and 31—35 of the “International Building Code 2009” (first printing) issued by the ICC. Chapter 11 and Appendix E of the “International Building Code 2015” issued by the ICC. The term includes all errata issued by the ICC.

International Energy Conservation Code—The “International Energy Conservation Code 2009” (first printing) issued by the ICC. The term includes all errata issued by the ICC.

International Existing Building Code—The “International Existing Building Code for Buildings and Facilities 2009” (first printing) issued by the ICC. The accessibility provisions in the “International Existing Building Code for Buildings 2015” issued by the ICC. The term includes all errata issued by the ICC.

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CHAPTER 403. ADMINISTRATION STANDARDS

§ 403.21. Uniform Construction Code.

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

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(2) Chapter 11 of the “International Building Code of 2015.”

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(10) The “International Existing Building Code.”

(i) Section 406.3 of the International Existing Building Code of 2015 (relating to replacement window emergency escape and rescue openings) is adopted.

(ii) The accessibility provisions of the International Existing Building Code of 2015 are adopted as follows:

- (A) Section 107.2 (relating to temporary structures and uses).
- (B) Section 410 (relating to the prescriptive compliance method).
- (C) Section 605 (relating to repairs).
- (D) Section 705 (relating to Level 1 alterations).
- (E) Section 801.1 (relating to Level 2 alterations).
- (F) Section 806 (relating to Level 2 alterations).
- (G) Section 901.2 (relating to Level 3 alterations).
- (H) Section 906 (relating to Level 3 alterations).
- (I) Section 1006 (relating to change of occupancy).
- (J) Section 1012.1.4 (relating to change of occupancy).
- (K) Section 1012.8 (relating to change of occupancy).
- (L) Section 1101.2 (relating to additions).
- (M) Section 1105 (relating to additions).
- (N) Section 1204.1 (relating to historic buildings).
- (O) Section 1205.15 (relating to historic buildings).
- (P) Section 1401.2.5 (relating to performance compliance methods).

- (Q) Section 1508 (relating to construction safeguards).
- (R) Appendix B.

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

(12) Appendix E of the “International Building Code of 2015.”

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**CHAPTER 405. ELEVATORS AND OTHER LIFTING DEVICES
GENERALLY**

§ 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):

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(4) “ANSI B77.1-2011 and supplement ANSI B77.1a-2012” for passenger ropeways, aerial tramways, aerial lifts, surface lifts, tows and conveyors.

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