

INDEPENDENT REGULATORY REVIEW COMMISSION

ORDER

Commissioners Voting:

Public Meeting Held September 11, 2024

George D. Bedwick, Chairman

John F. Mizner, Esq., Vice Chairman

John J. Soroko, Esq.

Murray Ufberg, Esq.

Dennis A. Watson, Esq.

34 Pa. Code Chapter 5
Department of Labor and Industry
Blasting, Demolition, Fireworks
and Explosives

The House Labor and Industry (Committee) submitted a letter to the Independent Regulatory Review Commission (Commission) requesting review under Section 8.1 of the Regulatory Review Act (RRA) (71 P.S. § 745.8a) of existing regulations of the Pennsylvania Department of Labor and Industry (Department) in 34 Pa. Code (relating to Labor and Industry). These regulations include:

- **Chapter 5 Blasting, Demolition, Fireworks and Explosives;**
- Chapter 7 Elevators, Lifts, Escalators, Dumbwaiters, Hoists and Tramways;
- Chapter 13 Propane and Liquefied Petroleum Gas, Subchapter B Lead Corroding and Oxidizing;
- Chapter 23 Laundering and Dyeing Establishments, Subchapter B Dry Cleaning and Dyeing;
- Chapter 31 Migrant Labor, Subchapter C Seasonal Farm Labor;
- Chapter 38 Building Energy Conservation Standards;
- Chapter 47 Miscellaneous Provisions, Subchapter D Facilities for Handicapped;
- Chapter 60 Universal Accessibility Standards; and
- Regulations issued under the General Safety Law (Act 174 of 1937), citing a list of 25 chapters and subchapters under 34 Pa. Code Part I (Chapters 1 to 60).

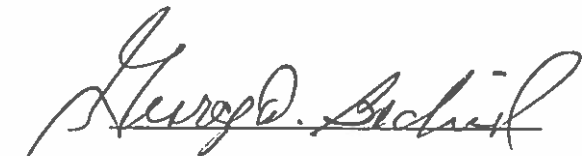
This Order addresses Chapter 5 which applies to blasting, demolition, fireworks, and explosives. Chapter 5 was last amended in 1969.

The Department is not currently enforcing Chapter 5 due to authority for Subchapter A being transferred to the Department of Environmental Resources (now the Department of Environmental

Protection or DEP) under 71 P.S. § 751-35 in 1981. The statutory authority cited in the *Pennsylvania Code* for Subchapters B, C, and D is Act 174 of 1937. Act 174 was partially repealed by Act 147 of 1971, and subsequently affected by Reorganization Plan No. 2 of 1975. Any requirements in Chapter 5 that are not consistent with DEP's regulations, the Uniform Construction Code (UCC), and federal regulations can only serve to cause confusion and impose unnecessary costs.

Based upon this Commission's review of this regulation, the enabling statute, information provided by the Department, and concerns raised by the Committee, we find the regulation is no longer in the public interest under the RRA criteria of statutory authority, legislative intent, economic impact, protection of the public safety, duplication of existing regulations, need, reasonableness, and comments by the Committee. *See* 71 P.S. § 745.5. We recommend the Department repeal Chapter 5 to the extent it is not consistent with the enabling statute, DEP regulations, the UCC, and applicable federal regulations.




George D. Bedwick, Chairman

INDEPENDENT REGULATORY REVIEW COMMISSION

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34 Pa. Code Chapter 7

Department of Labor and Industry

Elevators, Lifts, Escalators, Dumbwaiters,

Hoists and Tramways

The House Labor and Industry (Committee) submitted a letter to the Independent Regulatory Review Commission (Commission) requesting review under Section 8.1 of the Regulatory Review Act (RRA) (71 P.S. § 745.8a) of existing regulations of the Pennsylvania Department of Labor and Industry (Department) in 34 Pa. Code (relating to Labor and Industry). These regulations include:

- Chapter 5 Blasting, Demolition, Fireworks and Explosives;
- **Chapter 7 Elevators, Lifts, Escalators, Dumbwaiters, Hoists and Tramways;**
- Chapter 13 Propane and Liquefied Petroleum Gas, Subchapter B Lead Corroding and Oxidizing;
- Chapter 23 Laundering and Dyeing Establishments, Subchapter B Dry Cleaning and Dyeing;
- Chapter 31 Migrant Labor, Subchapter C Seasonal Farm Labor;
- Chapter 38 Building Energy Conservation Standards;
- Chapter 47 Miscellaneous Provisions, Subchapter D Facilities for Handicapped;
- Chapter 60 Universal Accessibility Standards; and
- Regulations issued under the General Safety Law (Act 174 of 1937), citing a list of 25 chapters and subchapters under 34 Pa. Code Part I (Chapters 1 to 60).

This Order addresses Chapter 7 which applies to elevators, lifts, escalators, dumbwaiters, hoists, and tramways. Chapter 7 was last amended in 1980.

According to the Department, Chapter 7 remains in effect for equipment installed prior to 2004 and functions as a complement to Chapter 405 under the Uniform Construction Code (UCC). Section 7.2 (*Scope*) provides:

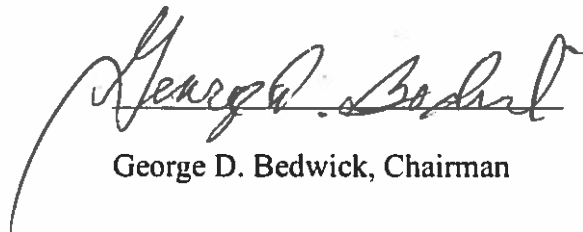
This chapter sets forth rules to safeguard the lives, limbs, maintenance and health of workers involved in the installation, operation and maintenance of elevators, lifts, escalators, dumbwaiters, hoists and tramways in this Commonwealth, and places the responsibility of compliance with the rules upon both employer and employe.

34 Pa. Code § 7.2.

As written, Section 7.2 is no longer clear regarding what it applies to and is inconsistent with the Department's response to our review.

Based upon this Commission's review of this regulation, information provided by the Department, and concerns raised by the Committee, we find the regulation is no longer in the public interest under the RRA criteria of economic impact, clarity, and comments by the Committee. *See* 71 P.S. § 745.5. We recommend the Department amend Chapter 7 to clarify that it only applies to equipment installed prior to the effective dates specified in Chapter 450 of the UCC.




George D. Bedwick, Chairman

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34 Pa. Code Chapter 13, Subchapter B

Department of Labor and Industry

Propane and Liquefied Petroleum Gas; Lead

Corroding and Oxidizing

The House Labor and Industry (Committee) submitted a letter to the Independent Regulatory Review Commission (Commission) requesting review under Section 8.1 of the Regulatory Review Act (RRA) (71 P.S. § 745.8a) of existing regulations of the Pennsylvania Department of Labor and Industry (Department) in 34 Pa. Code (relating to Labor and Industry). These regulations include:

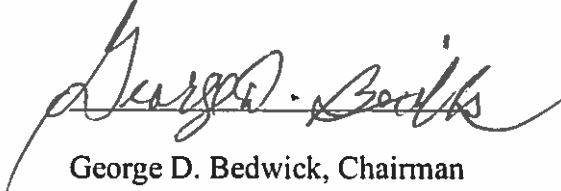
- Chapter 5 Blasting, Demolition, Fireworks and Explosives;
- Chapter 7 Elevators, Lifts, Escalators, Dumbwaiters, Hoists and Tramways;
- **Chapter 13 Propane and Liquefied Petroleum Gas, Subchapter B Lead Corroding and Oxidizing;**
- Chapter 23 Laundering and Dyeing Establishments, Subchapter B Dry Cleaning and Dyeing;
- Chapter 31 Migrant Labor, Subchapter C Seasonal Farm Labor;
- Chapter 38 Building Energy Conservation Standards;
- Chapter 47 Miscellaneous Provisions, Subchapter D Facilities for Handicapped;
- Chapter 60 Universal Accessibility Standards; and
- Regulations issued under the General Safety Law (Act 174 of 1937), citing a list of 25 chapters and subchapters under 34 Pa. Code Part I (Chapters 1 to 60).

This Order addresses Chapter 13 (*Propane and Liquefied Petroleum Gas*) and Subchapter B (*Lead Corroding and Oxidizing*). These regulations were last amended in 1977.

The Department explains, "Although these regulations no longer apply to private sector workplaces pursuant to the federal Occupational Safety and Health Act (OSHA), they retain ongoing applicability in the event of issues arising in public sector workplaces." This explanation represents a change in the applicability of Chapter 13, Subchapter B that is not in regulation.

Based upon this Commission's review of this regulation, information provided by the Department, and concerns raised by the Committee, we find the regulation is no longer in the public interest under the RRA criteria of economic impact, clarity, and comments by the Committee. See 71 P.S. § 745.5. We recommend the Department amend Sections 13.2 (*Scope*) and 13.131 (*Purpose*) to reflect the Department's response that Chapter 13, Subchapter B only applies to workplaces not regulated by OSHA.




George D. Bedwick, Chairman

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34 Pa. Code Chapter 23, Subchapter B

Department of Labor and Industry

Laundering and Dyeing Establishment; Lead

Corroding and Oxidizing

The House Labor and Industry (Committee) submitted a letter to the Independent Regulatory Review Commission (Commission) requesting review under Section 8.1 of the Regulatory Review Act (RRA) (71 P.S. § 745.8a) of existing regulations of the Pennsylvania Department of Labor and Industry (Department) in 34 Pa. Code (relating to Labor and Industry). These regulations include:

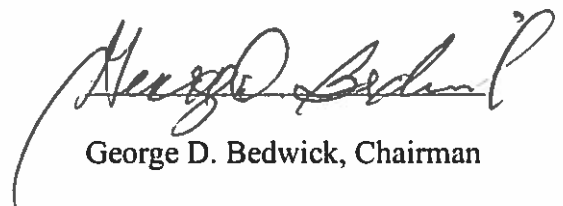
- Chapter 5 Blasting, Demolition, Fireworks and Explosives;
- Chapter 7 Elevators, Lifts, Escalators, Dumbwaiters, Hoists and Tramways;
- Chapter 13 Propane and Liquefied Petroleum Gas, Subchapter B Lead Corroding and Oxidizing;
- **Chapter 23 Laundering and Dyeing Establishments, Subchapter B Dry Cleaning and Dyeing;**
- Chapter 31 Migrant Labor, Subchapter C Seasonal Farm Labor;
- Chapter 38 Building Energy Conservation Standards;
- Chapter 47 Miscellaneous Provisions, Subchapter D Facilities for Handicapped;
- Chapter 60 Universal Accessibility Standards; and
- Regulations issued under the General Safety Law (Act 174 of 1937), citing a list of 25 chapters and subchapters under 34 Pa. Code Part I (Chapters 1 to 60).

This Order addresses Chapter 23 (*Laundering and Dyeing Establishments*), Subchapter B (*Dry Cleaning and Dyeing*). These were last amended in 1968. The authority for Subchapter B, as printed in the *Pennsylvania Code*, states, “The provisions of this Subchapter B issued under the Dry Cleaning and Dyeing Law (35 P.S. §§ 1269.19) (**Repealed**), unless otherwise noted.” [Emphasis added.]

The Department explains, "Although these regulations no longer apply to private sector workplaces pursuant to the federal Occupational Safety and Health Act (OSHA), they retain ongoing applicability in the event of issues arising in public sector workplaces." The Department does not cite any other statutory authority. Furthermore, Section 23.72 (*Scope*) does not reflect the limited applicability of Subchapter B as explained by the Department.

Based upon this Commission's review of this regulation, information provided by the Department, and concerns raised by the Committee, we find the regulation is no longer in the public interest under the RRA criteria of statutory authority, legislative intent, economic impact, clarity, and comments by the Committee. *See* 71 P.S. § 745.5. We recommend the Department amend Section 23.72 to reflect the limited applicability of Chapter 23, Subchapter B.




George D. Bedwick, Chairman

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Murray Ufberg, Esq.

Dennis A. Watson, Esq.

34 Pa. Code Chapter 31, Subchapter C

Department of Labor and Industry

Migrant Labor; Seasonal Farm Labor

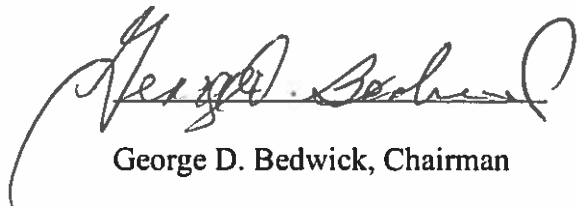
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- Chapter 5 Blasting, Demolition, Fireworks and Explosives;
- Chapter 7 Elevators, Lifts, Escalators, Dumbwaiters, Hoists and Tramways;
- Chapter 13 Propane and Liquefied Petroleum Gas, Subchapter B Lead Corroding and Oxidizing;
- Chapter 23 Laundering and Dyeing Establishments, Subchapter B Dry Cleaning and Dyeing;
- **Chapter 31 Migrant Labor, Subchapter C Seasonal Farm Labor;**
- Chapter 38 Building Energy Conservation Standards;
- Chapter 47 Miscellaneous Provisions, Subchapter D Facilities for Handicapped;
- Chapter 60 Universal Accessibility Standards; and
- Regulations issued under the General Safety Law (Act 174 of 1937), citing a list of 25 chapters and subchapters under 34 Pa. Code Part I (Chapters 1 to 60).

This Order addresses Chapter 31 (Migrant Labor), Subchapter C (Seasonal Farm Labor). These regulations were last amended in 1979. The authority for Subchapter C, as printed in the *Pennsylvania Code*, states, "The provisions of this Subchapter C issued under act of May 2, 1929 (P. L. 1518, No. 452) (35 P. S. §§ 341—1356), unless otherwise noted."

The Committee expressed concern that the *Pennsylvania Code* incorrectly cites Act 452 of 1929. The Department explained that its jurisdiction and authority is under the Seasonal Farm Labor Act. Based upon this Commission's review of this regulation, information provided by the Department, and concerns raised by the Committee, we find the regulation is still in the public interest under the RRA. See 71 P.S. § 745.5. Our recommendation is for the Department to correct the citation in the *Pennsylvania Code* through the Legislative Reference Bureau to avoid confusion.




George D. Bedwick, Chairman

INDEPENDENT REGULATORY REVIEW COMMISSION

ORDER

Commissioners Voting:

Public Meeting Held September 11, 2024

34 Pa. Code Chapter 38; Chapter 47,
Subchapter D; and Chapter 60

George D. Bedwick, Chairman

Department of Labor and Industry

John F. Mizner, Esq., Vice Chairman

Building Energy Conservation Standards;

John J. Soroko, Esq.

Miscellaneous Provisions, Facilities for the

Murray Ufberg, Esq.

Handicapped; and Universal Accessibility

Dennis A. Watson, Esq.

Standards

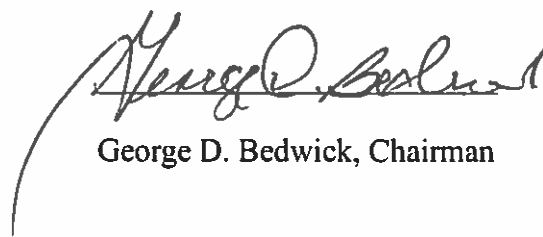
The House Labor and Industry (Committee) submitted a letter to the Independent Regulatory Review Commission (Commission) requesting review under Section 8.1 of the Regulatory Review Act (RRA) (71 P.S. § 745.8a) of existing regulations of the Pennsylvania Department of Labor and Industry (Department) in 34 Pa. Code (relating to Labor and Industry). These regulations include:

- Chapter 5 Blasting, Demolition, Fireworks and Explosives;
- Chapter 7 Elevators, Lifts, Escalators, Dumbwaiters, Hoists and Tramways;
- Chapter 13 Propane and Liquefied Petroleum Gas, Subchapter B Lead Corroding and Oxidizing;
- Chapter 23 Laundering and Dyeing Establishments, Subchapter B Dry Cleaning and Dyeing;
- Chapter 31 Migrant Labor, Subchapter C Seasonal Farm Labor;
- **Chapter 38 Building Energy Conservation Standards;**
- **Chapter 47 Miscellaneous Provisions, Subchapter D Facilities for Handicapped;**
- **Chapter 60 Universal Accessibility Standards; and**
- Regulations issued under the General Safety Law (Act 174 of 1937), citing a list of 25 chapters and subchapters under 34 Pa. Code Part I (Chapters 1 to 60).

This Order addresses Chapters 38 (*Building Energy Conservation Standards*), Chapter 47 (*Miscellaneous Provisions*), Subchapter D (*Facilities for Handicapped*), and 60 (*Universal Accessibility Standards*). These regulations were last amended in 1982, 1971, and 1994, respectively.

The authority for these regulations has been repealed and superseded by the Uniform Construction Code.

Based upon this Commission's review of this regulation, information provided by the Department, and concerns raised by the Committee, we find the regulation is no longer in the public interest under the RRA criteria of statutory authority, legislative intent, and comments and objections of the Committee. *See* 71 P.S. § 745.5. We recommend the Department repeal Chapters 38, 47, and 60 through the rulemaking process.



George D. Bedwick, Chairman

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34 Pa. Code Part I, Chapters 1-60

Department of Labor and Industry

Regulations Issued Under the General

Safety Law (Act 174 of 1937)

The House Labor and Industry (Committee) submitted a letter to the Independent Regulatory Review Commission (Commission) requesting review under Section 8.1 of the Regulatory Review Act (RRA) (71 P.S. § 745.8a) of existing regulations of the Pennsylvania Department of Labor and Industry (Department) in 34 Pa. Code (relating to Labor and Industry). These regulations include:

- Chapter 5 Blasting, Demolition, Fireworks and Explosives;
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- Chapter 23 Laundering and Dyeing Establishments, Subchapter B Dry Cleaning and Dyeing;
- Chapter 31 Migrant Labor, Subchapter C Seasonal Farm Labor;
- Chapter 38 Building Energy Conservation Standards;
- Chapter 47 Miscellaneous Provisions, Subchapter D Facilities for Handicapped;
- Chapter 60 Universal Accessibility Standards; and
- **Regulations issued under the General Safety Law (Act 174 of 1937), citing a list of 25 chapters and subchapters under 34 Pa. Code Part I (Chapters 1 to 60).**

This Order addresses regulations promulgated under the General Safety Law (Act 174 of 1937). The committee cited a list of 25 chapters and subchapters under 34 Pa. Code Part I (Chapters 1 to 60) to be considered for repeal or modernization. The most recent amendments for some of these regulations go back as far as 1966; the latest is 1980.

The Department acknowledged that most, if not all, of these regulations should be repealed or amended. Specifically:

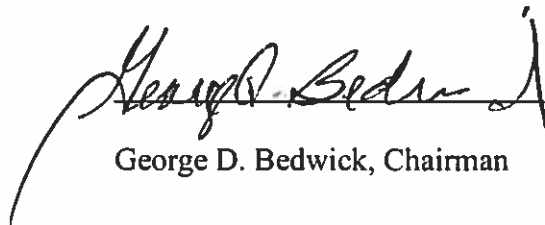
1. Chapter 27 (*Lighting*) because the subject matter is also regulated under the Uniform Construction Code (UCC).

2. Chapter 47 (*Miscellaneous Provisions*) and its Subchapters B (*Cereal Mills, Malthouses and Grain Elevators*), E (*Foundries*), and I (*Textile Industries*) because of the federal Occupational Safety and Health Administration Act (OSHA).
3. The following regulatory provisions retain applicability to public sector workplaces but no longer apply to the private sector pursuant to OSHA:
 - a. Chapter 6 *Construction and Repairs*;
 - b. Chapter 19 *Industries – Food and Drink*;
 - c. Chapter 21 *Ladders*
 - d. Chapter 23 *Laundry and Dyeing Establishments*;
 - e. Chapter 25 *Lifting and Carrying Apparatus*;
 - f. Chapter 29 *Mechanical Apparatus – Miscellaneous*;
 - g. Chapter 35 *Paints*;
 - h. Chapter 39 *Safety Standards – General*;
 - i. Chapter 41 *Sanitation*;
 - j. Chapter 43 *Tunnel Construction and Compressed Air Work*;
 - k. Chapter 45 *Woodworking and Related Operations*; and
 - l. Chapter 47 *Miscellaneous Provisions*, Subchapters C *Dry Color Industry*, F *Printing and Related Industries*, G *Railings, Toeboards, Open-Sided Floors, Platforms and Runways*, and J *Window Cleaning*).

All of these chapters have at least one section addressing scope, purpose, or applicability that is not consistent with the Department's response that they now only apply to public sector workplaces.

Based upon this Commission's review of these regulations, information provided by the Department, and concerns raised by the Committee, we find these regulations are no longer in the public interest under the RRA criteria of legislative intent, economic impact, clarity, need, reasonableness, and comments and objections raised by the Committee. See 71 P.S. § 745.5. We recommend the Department repeal these regulations or amend them to update and clarify the proper regulated community to align with state and corresponding federal law to avoid confusion.




George D. Bedwick, Chairman

INDEPENDENT REGULATORY REVIEW COMMISSION

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Dennis A. Watson, Esq.

Public Meeting Held September 11, 2024
34 Pa. Code Chapter 29, Subchapter F;
Chapter 41, Subchapter B; and Chapter 47,
Subchapter K
Department of Labor and Industry
Abrasive Wheels, Railroad Sanitation, and
Safety Glazing Material

The House Labor and Industry (Committee) submitted a letter to the Independent Regulatory Review Commission (Commission) requesting review under Section 8.1 of the Regulatory Review Act (RRA) (71 P.S. § 745.8a) of existing regulations of the Pennsylvania Department of Labor and Industry (Department) in 34 Pa. Code (relating to Labor and Industry). These regulations include:

- **Chapter 29 *Mechanical Apparatus - Miscellaneous, Subchapter F Abrasive Wheels;***
- **Chapter 41 *Sanitation, Subchapter B Railroad Sanitation; and***
- **Chapter 47 *Miscellaneous Provisions, Subchapter K Safety Glazing Material.***

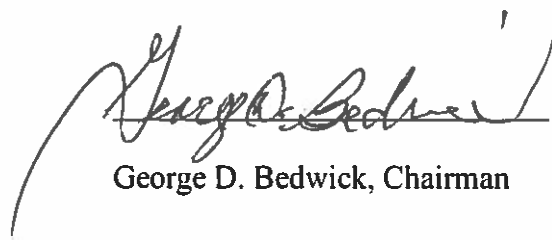
This Order addresses regulations promulgated under Chapter 29, Subchapter F; Chapter 41, Subchapter B; and Chapter 47, Subchapter K. Chapter 41 was last amended in 1968 and Chapter 47 was amended in 1979. The *Pennsylvania Code* does not specify when Subchapter F was last amended but its sole section (§ 29.231 *Reference to national standards*) references standards last amended in 1971.

The Department explained that the federal Occupational Safety and Health Act (OSHA) preempted Chapters 29 and 41 for private workplaces and narrowed the scope of the regulations to public sector workplaces. Additionally, the U.S Department of Labor's regulations, most recently amended in 2018, govern the use of abrasive wheels found in Chapter 29 of the Department's regulations.

The Department also acknowledged that the federal Consumer Protection and Safety Act preempts part of Chapter 47, Subchapter K. Accordingly, these regulations can be amended to reflect these changes. Chapter 27 (*Lighting*) because the subject matter is also regulated under the Uniform Construction Code (UCC).

Based upon this Commission's review of these regulations, information provided by the Department, and concerns raised by the Committee, we find these regulations are no longer in the

public interest under the RRA criteria of legislative intent, economic impact, clarity, need, reasonableness, and comments and objections raised by the Committee. *See* 71 P.S. § 745.5. We recommend the Department repeal these regulations or amend them to update and clarify the proper regulated community, to align with state and corresponding federal law, and to avoid unnecessary duplication and confusion.



George D. Bedwick, Chairman