

RULES AND REGULATIONS

Title 34—LABOR AND INDUSTRY

DEPARTMENT OF LABOR AND INDUSTRY

[34 PA. CODE CHS. 401, 403 AND 405]

Uniform Construction Code

In accordance with 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 Chapters 401, 403 and 405 (relating to Uniform Construction Code training and certification of code administrators; administration; and elevators and other lifting devices) to read as set forth in Annex A.

Statutory Authority

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

Background

The act mandates a process for the adoption of updated building codes issued by the ICC. Although most building code provisions are reviewed by the Pennsylvania Uniform Construction Code Review and Advisory Council under the procedure outlined in section 108 of the act (35 P.S. § 7210.108), the act specifically excludes the accessibility provisions of the ICC codes from this review under section 107(b)(3) (35 P.S. § 7210.107(b)(3)). Instead, section 304(a)(3) of the act requires the Department to adopt, by December 31 of the year of issuance by the ICC, the ICC's updated accessibility standards for the construction, repair or alteration of buildings in this Commonwealth. In 2018, the ICC issued codes containing updated accessibility standards. Adoption of the current accessibility standards will ensure that commercial buildings meet current standards for accessible and usable facilities. This final-omitted rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

The purpose of this final-omitted rulemaking is to adopt recognized international standards for accessible and usable buildings and structures, as directed by the act. The current accessibility regulations implemented the accessibility standards found in the 2015 ICC codes. This regulation implements current state-of-the-art accessibility standards and conforms to standards issued by the United States Department of Justice under the Americans with Disabilities Act (42 U.S.C.A. §§ 12101—12213). Adopting Chapter 11 and Appendix E of the 2018 International Building Code (IBC) for new construction along with the accessibility provisions contained in the 2018 International Existing Building Code (IEBC), the 2018 International Plumbing Code (IPC) and the 2018 International Swimming Pool and Spa Code (ISPSA) will allow

the Department to comply with the directive of the act to update accessibility requirements in the UCC with successor codes.

In addition, section 304(a)(2) of the act requires the Department to include the latest ANSI standards applicable to the operation of ski lifts prescribed in the American National Standards for Passenger Tramways, Aerial Tramways, Aerial Lifts, Surface Lifts and Tows, ANSI B77.1. The current regulation recognizes ANSI B77.1-2011 and supplement ANSI B77.1a-2012. However, the latest ANSI B77.1 standards are contained in ANSI B77.1-2017. Accordingly, the Department must adopt ANSI B77.1-2017 to bring 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.

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

On September 20, 2018, the Accessibility Advisory Board (Board) held a public hearing to review and consider the updates to the accessibility provisions of the ICC codes. This is required by section 106(b) of the act (35 P.S. § 7210.106(b)). The Board voted to endorse the accessibility updates found in the ICC codes. The Department has discussed the adoption of accessibility provisions for buildings with the Pennsylvania Builders Association and the Pennsylvania Association of Building Code Officials and both entities have expressed support for adoption of the accessibility provisions contained in the 2018 IBC for new construction and the accessibility provisions contained in the 2018 IEBC for existing buildings.

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

Purpose

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

Summary of Final-Omitted Rulemaking

§ 401.1. Definitions.

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

§ 403.21. Uniform Construction Code.

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

The Department is amending subparagraph (a)(6)(i) to make it more readable. In addition, the Department is adding new subparagraph (a)(6)(iii) to add accessibility provisions specifically designated by the ICC in the 2018 IPC. This is being done to implement the latest accessibility standards.

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

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

§ 403.26. *Swimming pools.*

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

§ 403.28. *Uncertified buildings.*

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

§ 405.2. *Standards.*

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

Affected Persons

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

Fiscal Impact

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

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

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

Reporting, Recordkeeping and Paperwork Requirements

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

Sunset Date

There is no sunset date for these regulations. The act requires accessibility standards to be updated every 3 years following publication of the triennial revisions to the ICC codes. In addition, the Department is required to have the latest standards for ski lifts as part of their elevator regulations.

Effective Date

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

Contact Person

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Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on April 3, 2019, 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 House and Senate Committees. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on May 15, 2019, the final-omitted rulemaking was approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 16, 2019, and approved the final-omitted rulemaking.

Findings

The Department finds that:

(a) Final-omitted rulemaking is allowed when procedures specified in sections 201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201 and 1202), are impracticable, unnecessary or contrary to the public interest. 45 P.S. § 1204(3).

(b) Following the procedures outlined in sections 201 and 202 of the Commonwealth Documents Law, are impracticable and unnecessary since the Department is required to adopt the updated ICC accessibility codes and the updated standards for ski lifts without change.

Order

The Department, acting under 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, 403.26, 403.28 and 405.2 to read as set forth in Annex A.

(b) The Department submitted these regulations to IRRC and the Senate and House Labor and Industry Committees.

(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 on the date of publication in the *Pennsylvania Bulletin*.

W. GERARD OLEKSIK,
Secretary

(*Editor's Note:* See 49 Pa.B. 2799 (June 1, 2019) for IRRC's approval order.)

Fiscal Note: 12-108. 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 Accreditation Service, Inc.—The International Accreditation Service, Inc., 5360 Workman Mill Road, Whittier, California 90601.

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

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

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

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

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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:

(1) The provisions of Chapters 2—10, 12—29 and 31—35 and Section 3006 (relating to elevator lobbies and hoistway opening protection) of the “International Building Code of 2015,” except:

(i) In occupancies in Use Group R-3 and within dwelling units in occupancies in Use Group R-2 the maximum riser height shall be 8 1/4 inches (210 mm) and the minimum tread depth shall be 9 inches (229 mm). A 1-inch (25 mm) nosing shall be provided on stairways with solid risers.

(ii) That Section 913.2.2 (relating to circuits supplying fire pumps) is excluded.

(iii) That in Section 2609.4 (relating to area limitations and greenhouses), exception three is modified to include “or maintaining plants.”

(2) Chapter 11 of the “International Building Code of 2018.”

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

(4) The “International Fuel Gas Code of 2015” except that Section 310.3 of the “International Fuel Gas Code of 2018” (relating to arc-resistant CSST) is also adopted.

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

(6) The “International Plumbing Code of 2015” except:

(i) A municipality within a county of the second class may not administer and enforce the “International Plumbing Code” adopted under this chapter.

(ii) A municipality within a county of the second class that has adopted a plumbing code and accompanying rules and regulations under the Local Health Administration Law (16 P.S. §§ 12001—12028), shall retain the authority to promulgate and enforce this plumbing code and to make any changes it deems necessary if the changes meet the Uniform Construction Code’s minimum requirements.

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

(A) Section 403.4 (relating to signage).

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

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

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

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

(i) The provisions of R314.4 requiring interconnected smoke alarms do not apply to one-family and two-family dwellings undergoing alterations, repairs or additions. Noninterconnected battery operated smoke alarms shall be installed in these dwellings.

(ii) The following specifications apply to residential stairway treads and risers.

(A) The maximum riser height is 8 1/4 inches. There may be no more than a 3/8 inch variation in riser height within a flight of stairs. The riser height is to be measured vertically between leading edges of the adjacent treads.

(B) The minimum tread depth is 9 inches measured from tread nosing to tread nosing.

(C) The greatest tread depth within any flight of stairs may not exceed the smallest by more than 3/8 inch.

(D) Treads may have a uniform projection of not more than 1 1/2 inches when solid risers are used.

(E) Stairways may not be less than 3 feet in clear width and clear headroom of 6 feet 8 inches shall be maintained for the entire run of the stair.

(F) Handrails may project from each side of a stairway a distance of 3 1/2 inches into the required width of the stair.

(iii) The following provisions are excluded:

(A) Section R302.5.1 (relating to opening protection).

(B) Section R322.2.1 (relating to elevation requirements for flood hazard areas).

(C) Section R322.3.2 (relating to elevation requirements for coastal high hazard areas).

(D) Section R325.5 (relating to openness).

(E) Table R507.6 (relating to deck beam span lengths).

(F) Table R602.7.5 (relating to minimum number of full height studs at each end of headers in exterior walls).

(G) Section N1101.4 (relating to above code programs).

(H) Section N1103.3.5 (relating to building cavities).

(I) Section N1103.5.2 (relating to demand recirculation systems).

(J) Table N1106.4 (relating to maximum energy rating index).

(K) Section P2503.5.1 (relating to rough plumbing).

(L) Section E3901.7 (relating to outdoor outlets).

(iv) The following provisions are modified:

(A) Section N1101.6 (relating to defined terms) is amended by adding the definition of “framing factor” as the fraction of the total building component area that is structural framing.

(B) Table 1102.1.2 (relating to insulation and fenestration criteria) is amended by adding “or 18 + 6.5^H” to climate zone 6 wood frame wall R-value.

(C) Table N1102.1.2 (relating to insulation and fenestration requirements by components) is amended by adding footnote j which permits R-18 insulation to be permitted in place of R-20 requirement provided the wall framing factor is 20% or less or exterior walls with 24” o.c. nominal vertical stud spacing.

(D) Section N1102.4.1.2 (relating to testing) is amended as having an air leakage rate not exceeding five air changes per hour for all climate zones.

(E) Section N1105.2 (relating to mandatory requirements) is amended to require compliance with the mandatory provisions of section N1102.4.1.2.

(F) Section M1601.4.1, exception 3 (relating to joints, seams, and connections) is amended by excluding this exception for snap-lock and button-lock type joints and seams located outside of conditioned spaces.

(G) Section M1602.2 item 2 (relating to return air openings) is amended to add the word perimeter before the first use of the word room.

(H) Section E3901.11 (relating to foyers) is amended by replacing 3 feet (914 mm) with 6 feet (1829 mm) and a minimum of one receptacle.

(v) The following provisions of the International Residential Code of 2009 are adopted:

(A) Section R302.5.1 (relating to opening protection).

(B) Section R322.2.1 (relating to elevation requirements for flood hazard areas).

(C) Section R322.3.2 (relating to elevation requirements for coastal high hazard areas).

(D) Section N1101.8 (relating to above code programs).

(E) Section N1103.2.3 (relating to building cavities).

(F) Section P2503.5.1 (relating to rough plumbing).

(G) Section E3901.7 (relating to outdoor outlets).

(vi) The following provisions of the “International Residential Code of 2018” are adopted:

(A) Section R325.5 (relating to openness) is adopted except for exception 2.

(B) Table R507.5 (relating to deck beam span lengths).

(C) Section R602.3.1 (relating to stud size, height, and spacing) exception 3.

(D) Table R602.3(6) (relating to alternate wood bearing wall stud size, height, and spacing).

(E) Table R602.7.5 (relating to minimum number of full height studs at each end of headers in exterior walls).

(F) Section N1103.3.6 (relating to ducts buried within ceiling insulation).

(G) Section N1103.3.7 (relating to ducts located in conditioned space).

(H) Table N1106.4 including footnote “a” (relating to maximum energy rating index).

(8) The “International Fire Code of 2015” except that Section 806.1.1 (relating to natural cut trees) is not adopted under this chapter. A municipality that elects to adopt an ordinance for the administration and enforcement of the Uniform Construction Code may, by ordinance, restrict the placement of natural cut trees in an occupancy group. The ordinance restricting the placement of natural cut trees is not subject to section 503(b)—(k) of the act (35 P.S. § 7210.503(b)—(k)) and § 403.102(i)—(k) (relating to municipalities electing to enforce the Uniform Construction Code).

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

(i) The following provisions are excluded:

(A) Section R102.1.1 (relating to above code programs).

(B) Section C104.2.6 (relating to final inspection).

(C) Section R403.3.5 (relating to building cavities (mandatory)).

(D) Section R403.5.2 (relating to demand recirculation systems).

(E) Table R406.4 (relating to maximum energy rating index).

(F) Section C408.2.4 (relating to preliminary commissioning report).

(ii) The following provisions are modified:

(A) Chapter RE 2 is amended by adding the definition of “framing factor” as the fraction of the total building component area that is structural framing.

(B) Table R402.1.2 (relating to insulation and fenestration requirements by component) is amended by adding “or 18 + 6.5^H” to climate zone 6 wood frame wall R-value.

(C) Table R402.1.2 (relating to insulation and fenestration requirements by components) is amended by adding footnote j which permits R-18 insulation to be permitted in place of R-20 requirement provided the wall framing factor is 20% or less or exterior walls with 24” o.c. nominal vertical stud spacing.

(D) Section R402.4.1.2 (relating to testing) is amended as having an air leakage rate not exceeding five air changes per hour for all climate zones.

(E) Section R405.2 (relating to mandatory requirements) is amended to require compliance with the mandatory provisions of section R402.4.1.2.

(iii) The following provisions of the International Energy Conservation Code of 2009 are adopted:

(A) Section 102.1.1 (relating to above code programs).

(B) Section 104.3 (relating to final inspection).

(C) Section 403.2.3 (relating to building cavities).

(iv) The following provisions of the International Energy Conservation Code of 2018 are adopted:

(A) Section R403.3.6 (relating to ducts buried within ceiling insulation).

(B) Section R403.3.7 (relating to ducts located in conditioned space).

(C) Table R406.4 including footnote "a" (relating to maximum energy rating index).

(10) The "International Existing Building Code of 2015" except that Section 101.2 (relating to scope) is modified to add an exception for detached residential buildings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures to comply with either the International Existing Building Code of 2015 or the International Residential Code of 2015.

(i) The accessibility provisions contained in the following sections of the "International Existing Building Code of 2018" are adopted:

(A) Section 301.5 (relating to compliance with accessibility).

(B) Section 305 (relating to accessibility for existing buildings).

(C) Section 1101.2 (relating to creation or extension of nonconformity).

(D) Section 1508 (relating to construction sites).

(E) Appendix "B" (relating to supplementary accessibility requirements for existing buildings and facilities).

(11) The "International Wildland-Urban Interface Code of 2015."

(12) Appendix E of the "International Building Code of 2018."

(13) Appendix H of the "International Building Code of 2009."

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§ 403.26. Swimming pools.

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

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

§ 403.28. Uncertified buildings.

(a) Under section 902(b)(6) of the act (35 P.S. § 7210.902(b)(6)), an uncertified building that was built before April 27, 1927, is deemed to be legally occupied until the owner proposes to renovate, add an addition, alter or change the occupancy of the building. The renovation, addition, alteration or change in occupancy must comply with the Uniform Construction Code.

(b) Under section 902(b) of the act, uncertified buildings within the Department's jurisdiction must meet the following requirements which do not apply to uncertified buildings under subsection (a):

(1) Maximum story height, minimum allowable construction type based on floor area, vertical opening and shaft protection requirements, means of egress requirements pertaining to minimum number of exits, maximum travel distances to exits, means of egress illumination, minimum egress widths and heights for exit doors, exit

stairs, exit ramps and exit corridors requirements under the "International Building Code of 2015."

(2) Fire safety requirements in the "International Building Code of 2015" for fire alarms, fire extinguishers, heat and smoke detectors, automatic sprinkler systems and occupancy and incidental use separations. The following also apply:

(i) If construction began on a building before May 19, 1984, the installation of automatic sprinkler systems is not required.

(ii) If construction began on a building after May 19, 1984, automatic sprinklers are only required if the building is classified in use groups E (educational), H (high-hazard), I (institutional), or R-1 or R-2 (residential) or if the building has occupied floors more than 75 feet above lowest level of fire department access. Buildings in use groups R-1 and R-2 which do not have occupied floors more than 75 feet above lowest level of fire department access may, instead of installing automatic sprinkler systems, install hard-wired interconnected heat and smoke detectors in all rooms or spaces, whether they are occupied or unoccupied.

(iii) If construction of a building began after May 18, 1984, automatic sprinkler installation shall be completed by December 22, 2010, or any certificate of occupancy issued shall be invalid.

(3) Accessibility requirements are applicable as follows:

(i) If construction of an uncertified building began before September 1, 1965, accessibility requirements will not be imposed by the Department.

(ii) If construction of a building began after August 31, 1965, and before February 18, 1989, and if the building is a State-owned building, a restaurant or a retail commercial establishment, the building must have at least one accessible main entrance, an accessible route from the accessible entrance to any public spaces on the same level as the accessible entrance and, if toilet rooms are provided, the building must have at least one toilet room for each sex or a unisex toilet room complying with the accessibility requirements of the "International Building Code of 2018."

(iii) If construction of the building began after February 17, 1989, all accessibility requirements of the "International Building Code of 2018" shall be met.

(4) Structural requirements will not be imposed unless the Department determines that the building or a portion of the building has defects that are defined as dangerous in section 202 of the "International Existing Building Code of 2015." If the building is dangerous, the Department may impose only those requirements minimally necessary to remove danger to the building's occupants.

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

(4) "ANSI B77.1-2017" for passenger ropeways, aerial tramways, aerial lifts, surface lifts, tows and conveyors.

(5) "ASME A18.1-1999" including "A.18.1a-2001" addenda for vertical and inclined wheelchair lifts and

stairway lifts. Testing under sections 10.3.2 and 10.3.3 shall comply with § 405.8 (relating to periodic test results).

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[Pa.B. Doc. No. 19-891. Filed for public inspection June 14, 2019, 9:00 a.m.]
