



International Code Council

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May 21, 2010

Docket # EERE-2010-BT-BC-0012

Mr. Jean Boulin
Office of Energy Efficiency and Renewable Energy,
Building Technologies Program
Department of Energy
1000 Independence Ave
Washington, DC 20585

Dear Jean:

We are writing to respond to the Request for Information published on April 21, 2010, regarding how the Department of Energy can better assist the states to adopt, enforce and assess compliance with the current model building energy codes.

1) Problems, Issues and Barriers:

One problem that we have identified that the Department can address directly is incorrect or confusing guidance being provided to the states.

Two letters are attached to this submission, one dated August 5, 2009 and another dated February 25, 2010. Both letters suggest or imply that it is *not* necessary for the states to adopt the 2009 IECC/ASHRAE 90.1-2007 under the American Recovery and Reinvestment Act (ARRA), when, in fact, the ARRA does require that states take those actions as a condition to receive SEP funds, which the Department has already disbursed to all 50 states (including the states in question).

The Department should have a consistent and continuing message, from all of its divisions that deal with buildings (including both the Office of Energy Efficiency and Renewable Energy and the Office of Weatherization and Intergovernmental Programs) that the ARRA requires states to meet the commitments they made to receive Federal Funds, which include the adoption and enforcement of the 2009 IECC or equivalent for residential buildings and 2007 ASHRAE 90.1 or equivalent for commercial buildings, as well as establishing a program for training and enforcement, to achieve 90% compliance by 2017.

We know that these letters and similar inconsistent messages are a significant barrier to adoption of the latest codes. Our field staff has seen opponents of the current model energy codes use these letters from the Department of Energy to argue to state officials that the state does not need to adopt the 2009 IECC, or equivalent. We strongly believe that the Department should issue corrections to these two letters, and a clear and unequivocal statement that the Department supports the conditions for the distribution of funds under ARRA, and intends to closely monitor whether the states are making progress in meeting the commitments made in the letters the states

submitted as a condition of receiving Federal SEP funding under ARRA.

Another significant barrier is the lack of local funding for the basic training and equipping of code officials to perform enforcement activities. We have heard from many jurisdictions that they are unable to acquire even the basic code books needed to enforce the code. Unfortunately, very little of the \$3.1 billion disbursed to the states under ARRASEP funding was allocated for training and equipping local code officials, who bear the responsibility for almost all enforcement activities of the building energy codes.

We would encourage the Department to follow-up with earlier plans to provide code books to the local jurisdictions, and work with providers of training for building code officials on the use and enforcement of the 2009 IECC, as well as more advanced certification of building officials in programs based on the IECC: Green Commercial Plans Examiner, Green Commercial Inspector, and Green Residential Plans Examiner and Inspector Certifications, all available from the International Code Council.

We stand ready to provide training, certification and appropriate publications as desired by the Department.

2) Training Needed:

As indicated above, there is a need for training, of all participants in the construction community, in the proper use and enforcement of the building codes. Many local jurisdictions in the United States have had severe budget reductions as a result of the steep decline in both tax revenues and building starts (which reduce fee-based income) over the course of the recession we have been experiencing for the past two years. As a result, normal training and publication budgets have been slashed at a time when the new codes and training for them are available, and needed to utilize the new codes in inspections and plan reviews.

We would encourage the Department to utilize whatever funds it has available, as well as to encourage State Energy Offices, that received massive increases in funding under the ARRA, to assist local jurisdictions with basic training and publication purchasing.

3) Processes, Information, Materials and Tools necessary to upgrade and achieve 90% compliance with current building energy codes:

We believe that along with the items mentioned above in the training section, the Department needs to support and assist peer-to-peer programs designed to train volunteer code officials at the state and local level, who have agreed to serve as mentors and provide outreach to other code officials and construction industry participants, in the use of the new building energy codes. One such program is the Energy Code Ambassadors Program, which is currently being developed and launched by the ICC and the Building Energy Codes Assistance Project (BCAP) and is seeking funding in four pilot states. A small investment from the Department of Energy would be leveraged through the use of local volunteers who have established relationships with building industry participants who are key to achieving increased compliance with the current model codes.

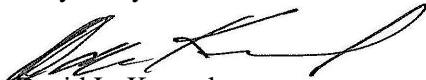
4) Assistance and Resources Available:

In addition to the specific issues mentioned in items 1 through 3 above, the ICC has a number of programs that could be of use to the Department in achieving its goals. As an example, ICC's International Accreditation Services (IAS) subsidiary offers a program to accredit building departments that demonstrate a certain level of consistency and quality in the performance of their permitting and inspection activities, which in turn can be used to measure or estimate compliance with energy codes that are enforced by that building department. The broader accreditation of building departments, as well as the use of data that correlates accreditation with compliance with codes in force within a particular jurisdiction could greatly simplify the task of measuring compliance to the 90% level, and eliminate the need for extensive third-party review, documentation, reporting and record-keeping. We would recommend the Department conduct a simple study to determine the correlation between building department accreditation and code compliance, and then use such data as the basis for a streamlined and simplified system to measure and report compliance for jurisdictions accredited by programs such as the IAS Building Department Accreditation program (http://www.iasonline.org/Building_Department_Program/)

Beyond these specific issues, we endorse the findings of the April 26/27 Energy Foundation-sponsored workshop held in Washington, DC. The workshop findings have been submitted by the National Association of Energy Officials (NASEO).

We would be delighted to meet with your staff at any time, to discuss these issues further. Please respond directly to me, at the following email address: dkarmol@iccsafe.org

Very Truly Yours,



David L. Karmol
Vice President, Federal and External Affairs



Department of Energy

Washington, DC 20585

August 5, 2009

Larry Persily
Legislative Aide
Office of Alaska House Finance Committee Co-Chair Rep. Mike Hawker
State Capitol, Room 505
Juneau, AK 99801

Dear Mr. Persily,

Thank you for the opportunity to clarify what is required for compliance with the building codes requirements contained in Section 410 of the American Recovery and Reinvestment Act of 2009 (ARRA), which would enable DOE to release the \$28,232,000 allocated to Alaska under ARRA for the State Energy Program.

The Department recognizes that all or some of the actions specified in Section 410 may not be within the authority of the Alaska State Governor or the State Legislature. For that reason, we have accepted Section 410 letters in which Governors have given us assurance that they have requested the appropriate authorities in their states to adopt the specified measures. The Legislature, because it has not adopted the authority for overall residential and commercial building code and energy-efficiency code enforcement in the past and instead leaves that to the discretion of municipalities, does not need to adopt, impose and enforce a statewide building code in order to qualify for SEP funds.

Rather, the state must provide assurances to DOE (either through gubernatorial certification or legislative resolution), that the state will encourage, promote and assist municipalities that choose to adopt their own energy-efficiency codes to achieve the goals of SEP – reduced energy consumption in public and private buildings.

If you have any further questions regarding this issue, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Gilbert P. Sperling".

Gilbert P. Sperling
Program Manager
Weatherization and Intergovernmental Program
Office of Energy Efficiency and Renewable Energy
US Department of Energy





Department of Energy
Washington, DC 20585

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February 25, 2010

The Honorable Bobby Jindal
Governor of Louisiana
PO Box 94004
Baton Rouge, Louisiana 70804-9004

Dear Governor Jindal:

I am writing to offer you the Department of Energy's assistance in meeting the goals of Section 410 of the American Recovery and Reinvestment Act. As you know, Section 410 contains important provisions to speed the adoption of updated, mandatory building codes that promote energy efficiency, and policies that align electric and gas utility financial incentives with helping utility customers use energy more efficiently. In accordance with Section 410, and as a condition of receiving designated Recovery Act funds, you wrote to DOE on March 23, 2009, and offered your representation that:

I have contacted our public utility commission by letter and requested that they consider additional actions to promote energy efficiency, consistent with the Federal statutory language contained in H.R.1 and their obligations to maintain just and reasonable rates, while protecting the public.

I have also written to the State Fire Marshal requesting his office to upgrade the Louisiana Commercial Building Energy Conservation Code to comply with State law and State Constitutional requirements, and to consider the statutory language contained in ARRA. Compliance with the ARRA for residential energy codes requires no action, as under State law in Louisiana R.S. 40:1730.21-32, Louisiana has already adopted the most recently published International Residential Code (IRC 2006).

DOE would be happy to provide Louisiana with assistance in meeting these goals. This assistance may include technical guidance in the form of consultations, written materials, and on-site help from DOE. Should you desire any such help, please do not hesitate to contact me. I greatly look forward to working with you on these issues.

Warmest regards,

Cathy Zoi
Assistant Secretary
Energy Efficiency and Renewable Energy

