

Home Builders Association of Connecticut, Inc.
VIA EMAIL: Sent 12-16-10 to CT Codes & Standards Committee

I received a copy of the CT Fund for the Environment (CFE)'s comments on the 2009 IECC and there are several assertions in CFE's comments that require our response. Please consider this email as the HBA of CT's further comments on the 2009 IECC. Our original comments regarding CFE's proposed 21 amendments to the 2009 IECC is [attached](#) (and referenced below).

The "beyond code" concept that CFE assumes, and which seemingly was also assumed in the 12-2-10 comments filed by DEP Commissioner Amey Marella, is not contained in either ARRA or PA 09-192. CFE sought such a "beyond code" change to the statute in their testimony on the bill that led to PA 09-192 but CFE's suggestion was not adopted by the legislature. (CFE's testimony of 2-3-2009 requested a target of 21% better, in the case of new construction, or 14% better, in the case of renovations, than the most current CT State Building Code). See all testimony, including ours, on PA 09-192 at http://www.cga.ct.gov/asp/menu/CommDocTmyBill.asp?comm_code=PS&bill=HB-06284&doc_year=2009.

According to CFE, the federal law ARRA says states must adopt a residential code that "meets or exceeds the 2009 IECC." So if CT adopts the 2009 IECC, by definition we've complied with ARRA. Yet CFE erroneously assumes more weight on ARRA's "exceeds" language versus the "meets" language. There is no basis in the law to do so.

Also, PA 09-192 says nothing about going "beyond code." In fact, PA 09-192's amendment to CGS Sec. 29-256a(1) says that CT's State Building Code must "require that commercial and residential buildings and building elements be designed to provide optimum cost-effective energy efficiency over the useful life of the building ..." and the act's amendment to CGS Sec. 256a(2) says the State Building Code shall be revised to "include provisions requiring certain buildings of or over a specified minimum size ... to meet or exceed optimum cost-effective building construction standards concerning the thermal envelope or mechanical systems Such provisions shall reference nationally accepted green building rating systems, including [LEED, Green Globes, NGBS] or an equivalent rating system...."

CFE seems to assume either "optimum cost-effective energy efficiency" means going beyond code, or the "meet or exceed" requisite requires you to go beyond code. We disagree with both assertions. We believe that the progression of increasing energy efficiency with each new version of the IECC means that the ICC has determined that its currently published version (i.e., 2009 IECC) is the optimum cost-effective energy efficient requirement. Furthermore, with the legislative reference to adopting the 2012 IECC within 18 months of its publication, there is an implicit recognition that going beyond the 2009 IECC will occur at that time. The fact that the 2012 IECC is currently being drafted and further ratchets-up energy efficiency requirements, a fact well known to Codes & Standards, also informs your decision to adopt the 2009 IECC as meeting the requirements of Public Act 09-192, at least in terms of meeting or exceeding optimum energy efficiency requirements.

Regarding CFE's claim that Codes & Standards failed to undertake further analysis of "optimum cost-effective" requirements, simply stating in statute a requirement to have a cost-effective anything does not trigger any specific level of analysis of "costs relative to the energy efficiency benefits provided by the proposed measures" as demanded by CFE. Codes & Standards, with long experience in reviewing and understanding the ICC model code adoption process, could justifiably rely on, if that is your determination, on ICC's judgment that the 2009 IECC is the current optimum cost-effective energy efficient requirement. Therefore, we believe it is a reasonable determination that adopting the 2009

IECC complies with the requirement in PA 09-192 to meet or exceed optimum cost-effective energy efficiency requirements.

Two specific language requirements of PA-09-192, however, may need to be further addressed. PA 09-192 requires a reference to the nationally accepted green building rating systems or an equivalent rating system. The 2009 IECC by itself is not a rating system, so it seems the code language or a preamble to same should at least reference the wording of the statute (i.e., relative to the thermal envelope and mechanical systems, the LEED, Green Globes and NGBS rating systems may be consulted for methods that might comply with applicable provisions of the 2009 IECC).

Additionally, PA 09-192 requires that its changes to 29-256a(2) apply to “certain buildings of or over a specified minimum size” Thus, there should be language in the code specifying the minimum size of buildings to which the 2009 IECC requirement applies. The original statute amended by PA 09-192 exempted the provision’s applicability for residential buildings with four or less units. The amendment changed its applicability to buildings of or over a specified size. It is our understanding, having been present throughout the legislative process, that this was done to provide Codes & Standards with the flexibility it needs to address various situations. There is no legislative history to define the meaning of the term, yet there was discussion among the stakeholders who drafted the legislative proposal regarding applicable buildings to which the statute applies. Thus, a similar threshold should be incorporated into the code, as discussed, i.e., making the code applicable to buildings with 5 or more residential units and those over a certain size for residential buildings of four or less units or nonresidential buildings.

Regarding the global warming statute, PA 08-98, CFE once again grossly overstates the impact energy efficiency improvements in new buildings will have on total greenhouse gas emissions. We explained this in our original January 25, 2010, comments on CFE’s proposed 21 amendments to the 2009 IECC. A copy of our original comment is [attached](#). With its latest comment, CFE raises again an argument that we believe does not warrant further consideration.

Finally, we very much oppose the suggestion of an appendix of requirements that could be adopted by municipalities. CT should steadfastly adhere to our long-standing statewide code and not allow or suggest local modifications. I’m sure this “stretch code” authority has been enthusiastically received by municipal governments in Massachusetts, as CFE asserts, but that does not mean it is a wise path to go down. I’m equally sure building owners, developers and real estate professionals would cringe at the thought of having to comply with 169 different menus of codes and standards provisions here in CT. The statewide nature of our State Building Code without local modification is the first thing to not destroy.

Thank you for the opportunity to comment on the 2009 IECC. Please let me know if you have any questions.

Bill

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