International Code Council
500 New Jersey Avenue, NW
Sixth Floor
Washington, DC 20001
tel: 888.icc.safe (422.7233)
fax: 202.783.2348
www.iccsafe.org

FR–5647–N–01 Preliminary Affordability Determinations: Energy Efficiency Standards

COMMENTS OF:
THE INTERNATIONAL CODE COUNCIL (ICC)
500 New Jersey Ave, NW
Washington, DC 20001

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Contact:
David Karmol, dkarmol@iccsafe.org

The International Code Council (ICC) is a membership association dedicated to building safety, fire prevention, and energy efficiency. The International Codes, or I-Codes, published by ICC, provide minimum safeguards for people at home, at school and in the workplace. Building codes benefit public safety and support the industry's need for one set of codes without regional limitations. Among the codes published by ICC is the International Energy Conservation Code (IECC), which is referenced in the Energy Conservation and Production Act (ECPA, Public Law 102-486), and the Energy Independence and Security Act (EISA) of 2007, and is a national requirement in the American Recovery and Reinvestment Act of 2009. ICC also publishes the International Green Construction Code (IgCC), which contains energy efficiency, water efficiency, air quality, siting and location considerations and sustainability provisions.

Fifty states and the District of Columbia have adopted the I-Codes at the state or jurisdictional level. Federal agencies including the Architect of the Capitol, General Services Administration, National Park Service, Department of State, U.S. Forest Service and the Veterans Administration use the I-Codes for the facilities that they own or manage. The Department of Defense references the International Building Code in the Uniform Facilities Code for constructing military facilities, including those that house U.S. troops, domestically and abroad.

ICC was established in 1994 as a non-profit organization dedicated to developing a single set of comprehensive and coordinated national model construction codes. The founders of the ICC are Building Officials and Code Administrators International, Inc. (BOCA), International Conference of Building Officials (ICBO), and Southern Building Code Congress International, Inc. (SBCCI). ICC is the legal successor organization to the Council of American Building Officials (CABO), that published the first Model Energy Code in 1992.

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ICC is also the parent organization of ICC Evaluation Services and International Accreditation Services (IAS), two prominent market participants in the private conformity assessment system of the United States.

Background

The Energy Independence and Security Act of 2007 (EISA) establishes procedures for the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture (USDA) to adopt revised versions of the 2006 International Energy Conservation Code (IECC) and to the 2004 energy codes of the American Society of Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE), referred to as ASHRAE 90.1-2004, as part of the "Builders Certification," subject to: (1) A determination that the revised energy codes do not negatively affect the availability or affordability of new construction of single and multifamily housing covered by EISA, and (2) a determination by the Secretary of Energy that the revised codes "would improve energy efficiency." [(1)] This Notice announces the preliminary determination of HUD and USDA, as required under section 481(d) of EISA, that the 2009 IECC and (with the exception of the State of Hawaii) ASHRAE 90.1-2007 will not negatively affect the affordability and availability of housing covered by EISA. As of September 2013, 32 States plus the District of Columbia have already adopted the 2009 IECC, its equivalent, or a higher standard for single family homes. Thirty-eight States plus the District of Columbia have already adopted ASHRAE 90.1-2007, its equivalent, or a higher standard for multifamily buildings. For those States that have not yet adopted either of these standards, this Notice relies on several studies that show that these codes are cost effective, in that the incremental cost of the additional efficiency measures pays for itself with energy cost savings on a life-cycle basis.

Comments

ICC believes that it is well settled and no longer in dispute that the 2009 IECC, as well as the 2007 ASHRAE 90.1 (incorporated into the 2009 IECC, and allowed as a compliance path for multi-family residential and commercial buildings), increase the energy efficiency of homes and buildings constructed to meet them. The Secretary of Energy made a finding that both the 2009 IECC and the 2007 ASHRAE 90.1 were more energy efficient than their previous versions, and much real-world experience demonstrates that buildings in compliance with these codes use significantly less energy, than buildings constructed to previous codes.

HUD and USDA have done an exceptionally thorough and comprehensive review of both the available research and literature relating to the cost effectiveness of building homes and multi-family units to the IECC and/or ASHRAE 90.1, and have reached the same conclusion reached by experts, and building code authorities in the majority of states: that building single family and multi-family homes to the 2009 IECC is cost-effective, and results in greater affordability, and lower energy use and lower energy expenses. In addition, there is ample evidence that potential homebuyers want energy efficiency, and that they are willing to pay incrementally more for energy efficient homes. Perhaps the most significant such study is one conducted for the

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National Association of Home Builders (NAHB) and released in February 2013: "What Do Home Buyers Really Want?" (http://eyeonhousing.org/2013/02/28/what-do-home-buyers-really-want/) This study confirms that home buyers want and expect energy efficiency, with over 90% rating an EnergyStar rating for the whole home as either "must have" or "desirable." Given that builders are currently building and selling many EnergyStar rated homes, and that EnergyStar requirements incorporate the building envelope requirements of the 2009 IECC, as well as a number of higher efficiency requirements, it is obvious that there is no barrier to building 2009 IECC compliant homes. In short, this proposed requirement would have no negative effect on home availability.

HUD and USDA have done a good job of explaining the various methods of examining cost effectiveness, and have concluded that the two energy codes are cost effective, and have a payback period of between 2 and 5 years, depending on the method of calculating the payback.

ICC believes it is critical for HUD and USDA to examine affordability on the basis of the monthly cost of all elements of living in a home, not just the first cost. This is true because the vast majority of homes, and all of those homes where HUD and USDA are providing mortgage guarantees, are financed by a 15, 20 or 30 year mortgage, so that "affordability" is the monthly sum of mortgage interest, principal and taxes, insurance, and utility and other operating costs for the house. If the monthly utility bill is lowered by 10 or 20%, as a result of energy efficient code requirements, the home is more affordable, even if the initial cost increases by several thousand dollars, since the increase in the monthly amortized mortgage cost will be less than the decrease in utility costs.

That said, it is clear from recent experience that much of the resistance to the adoption of more efficient energy codes at the state and local levels comes from home builders, who bear the initial cost of more efficient energy code compliance, and have expressed concerns over whether that initial cost can be recovered in the home selling price. This concern is one of the strongest reasons for HUD and USDA to adopt these new codes as a pre-requisite for Federal mortgage insurance, as the requirement to meet the 2009 IECC for new single family homes will level the playing field, and lower the incremental cost of compliance as more homes use the energy efficient practices, products and materials that the codes require. At the same time, the requirement will make the new homes more affordable to owners, lessening the chance of mortgage default and losses suffered by the Federal mortgage guarantee programs. Reducing those losses should be a primary goal of the underwriting requirements for both FHA and VA mortgage insurance programs.

We agree with HUD and USDA analysis and support making the preliminary determination with respect to the 2009 IECC final.