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OSHA Docket Office
Docket No. S-778-B
Room N-2625
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Comments on Advance Notice of Proposed Rulemaking, Docket S-778B

The International Code Council® (ICC®), as discussed below, supports this proposed action by the Occupational Health and Safety Administration (OSHA) of the U.S. Department of Labor, and offers its observations on issues to be addressed in adopting a final rule.

The ICC is an association of building safety and fire prevention professionals whose membership of 42,000 includes broad representation from local, state and federal public and private sector interests. The ICC mission is to provide the highest quality codes, standards, products, and services for all concerned with the safety and performance of the built environment. This mission and the activities of the ICC directly relate to providing a safe physical environment through the adoption, implementation and use of codes and standards developed by our membership, and through the robust supporting infrastructure ICC provides to aide the effective use of our codes and standards. These codes and standards, and the infrastructure ICC provides, are key means by which the design and building industries work together with building safety and fire prevention authorities in protecting America's built-environment.

The codes developed under the auspices of the ICC, with the participation of all interested and affected parties, serve as a baseline for the design, construction, operation and maintenance of the majority of both public and private sector buildings in the U.S. They are readily recognized and understood by building owners, product manufacturers, designers, contractors, insurance interests, policy decision-makers, code officials and all others involved in building design, construction, approval, and operation. Through their adoption and implementation by federal, state and local government, new and existing buildings are increasingly safer and more responsive to both natural and man-made disasters and other building safety and performance related issues.

The ICC is encouraged by the Department's advancement of the issue of recognizing the provisions of the IBC and IFC as meeting OSHA's egress requirements through this Advanced Notice of Proposed Rulemaking. ICC's request for this recognition is put forward on behalf of the interests of the membership of the ICC, the jurisdictions

that adopt and enforce the IBC and the IFC, and, more at-large and most especially, on behalf of the building and business managers that own or utilize facilities constructed and maintained in compliance with these codes. ICC initiated a request for this recognition in May of 2004, with submission of a document in November of 2005 that details a section by section comparison and analysis of the IBC with OSHA's rules in Subpart E. After review of that document OSHA made a preliminary finding, as noted in this ANPRM, recognizing the IBC and IFC as compliant with the OSHA requirements. It is that document we now formally submit in this proceeding, as demonstration that the IBC and IFC meet or exceed the OSHA requirements, and can be relied upon to record compliance with the federal requirements at Subpart E.

In section II, A of the ANPRM OSHA requests reply on 3 questions, those being:

1. *Do the combined egress provisions of the IBC and the IFC offer equivalent protection to OSHA's Subpart E?*
2. *Are there other alternative national building codes that OSHA should consider?*
3. *Would allowing the use of the IBC and IFC as an equivalent to Subpart E help employers reduce cost?*

Question 1: Yes, the combined egress provisions of the IBC and IFC offer equivalent protection to OSHA's Subpart E. The attached document, entitled "Comparison of IBC and OSHA Requirements Related to Building Egress" was first forwarded to OSHA in November of 2005 in support of ICC's request for this recognition, and was relied upon in OSHA's preliminary finding of equivalency. This document is offered again, in this filing, to demonstrate and substantiate a finding of equivalency through this proceeding.

Question 2: No, the ICC is not aware of alternative national building codes that OSHA should consider. The ICC observes that, as stated in the ANPRM, "OSHA currently permits employers to demonstrate compliance by following the egress provisions of the National Fire Protection Association (NFPA) 101, Life Safety Code (2000 edition)." While the Life Safety Code is not presented, adopted or enforced as a complete building code or fire code, it does address the provisions of egress contained in 1910 Subpart E, and is widely in use across the United States. The IBC and the IFC are nationally recognized building and safety codes used as the basis for construction regulations nationwide.

Question 3: Yes. As the IBC and IFC are in force as a requirement for a Certificate of Occupancy, and as that certification is also demonstrative of compliance with egress requirements equivalent to OSHA's requirements, employers are expected to enjoy savings by relief from administering a separate proof of conformance. In this discussion it is important to clarify that equivalency represents that, with or without this action, the facility will be constructed to the same standards and requirements for occupational safety. As this is the case, no construction savings, other than relief of duplicative administrative and regulatory burdens, and associated costs in delays to building occupancy, can be anticipated. As there was not an inquiry into potential employer savings in the process of recognition of the LSC for this purpose, there is no administrative record on the point of savings from removing this redundant administrative requirement. Nonetheless, it is expected that employers will enjoy savings in time and expense from being relieved of the requirement to separately demonstrate compliance with

1910, when a building is already required, under broader building occupancy requirements, to be certified as compliant with the IBC and the IFC.

Section M of the ANPRM, entitled “General Solicitation for Recommendations”, requests input on other OSHA standards that are in need of improvement due to being duplicative, outdated, confusing or inconsistent with other standards. For inclusion and additional consideration in this proceeding, ICC submits correspondence on this point dated in May and November of 2005.

Once again, ICC thanks you for the opportunity to provide input on this proposal. Should additional information be needed, or should OSHA want to involve ICC further through our relationship with state and local officials and the building community, please do not hesitate to contact us.

Respectfully submitted by the International Code Council,

Sara C. Yerkes
Senior Vice President of Government Relations