

April 25, 2005

Jacqueline D. Rodgers
U.S. Department of Energy
Docket Number EH-RM-03-WSH
Room GA-098
1000 Independence Avenue, SW
Washington, DC 20585-0270

Subject: Comments Supplemental Notice of Proposed Rulemaking RIN 1901-AA99
(70 Fed Reg 3812 et. sec., January 26, 2005)

To whom it may concern:

The International Code Council (ICC) submits the following comments regarding the proposed rulemaking by the U.S. Department of Energy (70 Fed. Reg. 3812 et. sec.) to establish worker safety and health regulations to govern contractor activities at DOE workplaces. The ICC is a 50,000-member association dedicated to building safety whose mission is to provide the highest quality codes, standards, products, and services for all concerned with the safety and performance of the built environment. These comments elaborate on and supplement oral comments provided by our David Conover during the public hearing on March 29, 2005 (see Attachment A) and recommend that DOE adopt by reference the ICC International Codes (I-Codes) to address the subject of the rulemaking. Of particular importance, a DOE reference to the I-Codes would adopt virtually all of the standards listed in Tables 1 to 5 of the proposed rule. Most importantly the I-Codes provide needed criteria to administer the codes and bring together all the standards referenced in Tables 1 to 5 and more into a cohesive and coordinated set of building regulatory provisions.

The I-Codes developed under the auspices of the ICC 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. As such the I-Codes are readily recognized and understood by building

In brief, the I-Codes are the basis for the vast majority of U.S. construction regulations. In using those codes as a basis for its rules DOE would further consistency and uniformity, enhance the safety of workers within DOE facilities and ensure consistency within DOE facilities on issues related to safety.

Of particular importance and relevance is the establishment of the ICC by the three U.S. model building code organizations (Building Officials and Code Administrators International, International Conference of Building Officials, and Southern Building Code Congress) in 1994. Prior to that date model codes were developed separately by each of these organizations and state

- ∅ Promote simplicity, uniformity and consistency in design, construction and conformity assessment
- ∅ Build upon a common denominator set of codes, and standards referenced in those codes, that are used throughout the U.S.

General

To fully understand and address ICC's comments it is important to have an understanding of the current situation regarding federal, state and local building regulations. With the publication of the ICC International Codes, a complete and coordinated set of documents to address all aspects of building safety, federal, state and local government have a singular solution to addressing building safety and performance issues. With few exceptions federal, state and local government have adopted and are using these codes. Federal agencies are doing so in response to the National Technology Transfer and Advancement Act (P.L. 104-113) and the need to update their building-related policies and requirements. State and local agencies are doing so in response to the scheduled updating of their building-related regulations. In most all cases federal, state and local regulations were based on one of the three model codes noted above, although federal agencies tended toward "home grown" provisions to address issues considered unique to each

- c. National Fire Protection Association (NFPA) 101, Life Safety Code. Published by the NFPA.*
 - d. Occupational Safety and Health Standards for General Industry. Title 29 Code of Federal Regulations part 1910 (29 CFR part 1910).*
 - e. Uniform Federal Accessibility Standards (UFAS). Published by the General Services Administration, 1984.*
- 3. Facilities Owned and Operated by the Forest Service. The following design and operating codes and standards apply:*
- a. International Family of Building and Related Codes. Published by the International Code Council.*
 - b. Americans with Disabilities Act Access Guidelines. Title 28, Code of Federal Regulations, part 36 (28 CFR part 36). Although the UFAS is a statutory requirement, the Americans with Disabilities Act Accessibility Guidelines (ADAAG) are the latest and most complete guidelines available at this time. The more stringent requirement shall apply when conflicting direction occurs.*
 - c. Forest Service Health and Safety Code Handbook set out in FSH 6709.11.*
 - d. National Electrical Safety Code published by the Institute of Electrical and Electronics Engineers, Inc.*
 - e. National Fire Codes published by the National Fire Protection Association.*
 - f. Occupational Safety and Health Standards for Construction set out in Title 29, Code of Federal Regulations, Part 26 (29 CFR part 26).*
 - g. Occupational Safety and Health Standards for General Industry set out in Title 29, CFR part 1910 (29 CFR part 1910).*
 - h. Uniform Federal Accessibility Standards published by the General Services Administration, 1988.*
 - i. Handbook on Fundamentals, Design, and Evaluation Criteria for Energy Conservation in New Buildings, Standard 90. Published by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers.*
 - j. Built Environment Image Guide published by the USDA Forest Service, 2001, document number FS-710.*
- 4. Conflicts. Generally, the latest edition of each applicable standard applies. When overlap occurs in cited standards and codes, the more protective standard applies. Conflicts in code requirements should be resolved by the Regional Director responsible for engineering.*

National Laboratory (PNNL). Should the proposed

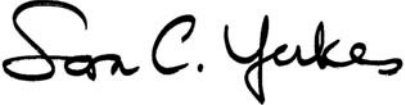
higher probability of being saved should a fire occur.

During the public hearing on March 29, 2005 the testimony of the other speakers (2) focused on implementation. One speaker advocated an approach wherein contractors doing business for DOE and meeting certain protection program criteria be recognized in the final rule and exempt from the inspection requirements in the final rule. The other speaker advocated the elimination of all exceptions and that DOE take the steps necessary to implement and enforce the DOE-adopted rules. The ICC is not taking a position one way or the other on this matter as DOE would have a much better understanding of the level of effort involved through direct DOE or third party enforcement activities. Certainly accredited third parties can and do provide a valuable service to building owners and regulatory officials in their conduct of conformity assessment activities on behalf of the recognized authority. Where the recognized authority does not have such accredited third paa

should they choose to compete for DOE business.

The ICC appreciates the opportunity to provide comments and hopes DOE will consider the opportunity it has to further solidify the uniformity and consistency of U.S. building regulation. Should additional information be needed please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink that reads "Sara C. Yerkes". The signature is written in a cursive, flowing style.

Sara C. Yerkes
Senior Vice President of Government Relations