

RECA

RESPONSIBLE ENERGY CODES ALLIANCE

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October 21, 2010

VIA ELECTRONIC MAIL

Commissioner Hatice Gecol
Nevada Renewable Energy and Energy Efficiency Authority
Attn: Rulemaking Comments for 2009 *IECC*
101 N. Carson Street
Carson City, NV 89701

Re: Comments Supporting the Adoption of the 2009 *IECC* in Nevada

Dear Commissioner Gecol:

We are writing to support the adoption of the 2009 International Energy Conservation Code (*IECC*) for residential and commercial construction. The adoption of the *IECC* with no substantive weakening amendments will fulfill the intent of the Nevada General Assembly in NRS 701.220, and help Nevada meet its long-term energy goals and its commitments under the American Recovery and Reinvestment Act (Recovery Act).

The Responsible Energy Codes Alliance is a broad coalition of energy efficiency professionals, regional organizations, product and equipment manufacturers, trade associations, and environmental organizations that promote the adoption and implementation of improved building energy codes and, in particular, the most recent version of the *IECC* nationwide. A list of RECA members is enclosed with this letter. RECA members have been involved in the development of the *IECC* since its inception. RECA has been involved in the adoption and implementation of the *IECC* (and its predecessor the *Model Energy Code*) in jurisdictions across the country for two decades.

The adoption of the 2009 *IECC* is an important step forward for the state of Nevada. The passage of Senate Bill 73 in 2009 clarified the requirement of the Nevada Renewable Energy and Energy Efficiency Authority to update Nevada's energy code on a regular three-year cycle. NRS 701.220 requires the adoption of the most recent version of the *IECC*, and allows amendments only where they "will not materially lessen the effective energy savings requirements of the Code." The *IECC* is designed to be directly adopted as a turnkey energy efficiency standard for all levels of construction – residential and commercial – without the need for amendments. To the extent that the Authority

decides to amend the *IECC*, we support the General Assembly's intent to ensure that amendments will not materially weaken the code.

The adoption of the 2009 *IECC* will follow through on commitments by the state made in response to federal law – specifically, the American Recovery and Reinvestment Act of 2009. In a March 23, 2009 letter to the Department of Energy, the state committed to meet the terms of the Recovery Act, which includes the requirements in Section 410(a)(2) to implement a “building energy code (or codes) for residential buildings that meets or exceeds the most recently published [*IECC*], or achieves equivalent or greater energy savings,” and a “building energy code (or codes) for commercial buildings throughout the State that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1-2007, or achieves equivalent or greater energy savings.”¹ This commitment was made as a condition for receiving State Energy Program grants of \$34,714,000.² A copy of that letter is attached to these comments.³ We believe that the proposal to adopt the 2009 *IECC* in Nevada is a significant step toward fulfilling this commitment.

The adoption of the 2009 *IECC* will also facilitate Nevada's compliance with the Energy Conservation and Production Act, which provides that when the *IECC* and ASHRAE 90.1 are revised, and the Secretary of Energy determines that the revised codes would improve energy efficiency, states are required to take specific actions to update their energy codes.⁴ On September 3, 2010, the U.S. Department of Energy issued proposed determinations that found that the 2009 *IECC* and ASHRAE 90.1-2007 achieve greater energy savings than previous codes.⁵ As these determinations are finalized in the coming months, states will have two years to make their own determinations: 1) Certify that they have reviewed the provisions of their residential building code regarding energy efficiency and make a determination as to whether to update their residential code to meet or exceed the most recent *IECC*; and 2) Certify that they have reviewed the provisions of their commercial building code and updated that code to meet or exceed ASHRAE 90.1-2007. By adopting the 2009 *IECC* (and by reference, ASHRAE 90.1-2007), Nevada will greatly simplify the certification process and will maintain the level of energy efficiency anticipated by the Energy Conservation and Production Act.

By adopting the 2009 *IECC*, Nevada will also join the growing ranks of states that are updating building codes to the national standard. A good number of states have already adopted the 2009 *IECC* and are moving ahead toward 90% compliance with that code. By our count, 9 States have already adopted and implemented the 2009 *IECC* for residential construction, and 10 more are in the final stages of adopting that code. In fact, at least 6 states are already going beyond the 2009 *IECC* in efficiency.⁶

¹ By adopting the 2009 *IECC* for commercial construction, Nevada will also be adopting, by reference, ASHRAE Standard 90.1-2007. For commercial construction, the *IECC* allows compliance with either *IECC* Chapter 5 or ASHRAE 90.1-2007, two codes that are widely regarded as equivalent in energy efficiency.

² http://www.energy.gov/media/Gibbons_Nevada.pdf

³ The March 23, 2009 letter reprints the specific language of ARRA Section 410(a).

⁴ 42 U.S.C. 6831, *et seq.*

⁵ See 75 Fed. Reg. 54117 (September 3, 2010); 75 Fed. Reg. 54131 (September 3, 2010).

⁶ 2009 *IECC* effective as of the date of this letter: Montana, Iowa, Illinois, Pennsylvania, Maryland, New Hampshire, Massachusetts, Delaware, and Rhode Island. 2009 *IECC* effective in the near future: Texas, Michigan, New Jersey, Georgia, Virginia, Connecticut, New York, Maine, Idaho, and Vermont. States that

More importantly, by implementing and enforcing the 2009 *IECC*, Nevada will help ensure that every buyer of a new home gets a reasonably efficient home. Studies recently published by the U.S. Department of Energy show substantial energy and cost savings from the adoption of the model codes. For residential construction, DOE calculates that the adoption of the 2009 *IECC* in Nevada will save the average homeowner that purchases a home meeting the code up to 17%, or around \$252 per year, in energy costs.⁷ The results are similar for commercial construction.⁸ Some of the specific improvements incorporated into the 2009 *IECC* for Nevada include the following:

- Ducts must be tested to ensure reasonable tightness, or in the alternative, all ducts must be located within conditioned space;
- Air leakage must also be tested or must undergo a rigorous visual inspection by a code official or other approved party;
- Wood frame wall, basement wall, and mass wall insulation levels have been increased for a more efficient building thermal envelope;
- Stronger U-factor and SHGC requirements for windows in Nevada's hottest counties will ensure a reduction in peak demand and energy use and will increase comfort for occupants;
- High-efficacy lighting requirements are included in the *IECC* for the first time; and
- For buildings that meet the simulated performance alternative (Section 405), improvements include the elimination of trade-offs of longer-lived envelope and other measures for mechanical system improvements and more realistic assumptions of fenestration area.

Nevada and its citizens stand to benefit from the adoption of the 2009 *IECC* in many ways.

- The 2009 *IECC* is the final product of a code development process that involves the nation's leading experts in energy efficiency, building design and product performance, state and local code officials, product manufacturers, and homebuilders.
- By adopting the 2009 *IECC*, Nevada will stay on track with state energy efficiency goals and will provide benefits to homeowners for many years. New construction is the most cost-effective time to install good insulation, quality windows and doors, and efficient heating and cooling equipment. Construction costs will be reduced through economies of scale, as suppliers and retailers may

are developing or that have adopted codes beyond the 2009 *IECC*: New Mexico, California, Florida, Washington, North Carolina, and the District of Columbia.

⁷ U.S. Department of Energy, *Impacts of the 2009 IECC for Residential Buildings at State Level* (September 2009), available at http://www.energycodes.gov/implement/nationwide_analysis_reports.stm.

⁸ U.S. Department of Energy, *Impacts of Standard 90.1-2007 for Commercial Buildings at State Level* (September 2009), available at http://www.energycodes.gov/implement/nationwide_analysis_reports.stm.

reduce inventories and streamline production to meet more consistent energy targets.

- The adoption of the 2009 *IECC* will facilitate compliance and enforcement of the code, and will allow builders and code officials to take advantage of free Department of Energy trainings, the latest free compliance software like REScheck, and other programs.

Builder Compliance Guides

I am attaching a draft 2009 *IECC* Builder Compliance Guide for Nevada. RECA makes these guides available free of charge for use as compliance aids, training material, or quick reference for builders. A complete selection of guides for all fifty states is available on our website, www.reca-codes.com.

Conclusion

RECA strongly supports adoption of the 2009 *IECC* without substantive weakening amendments, and we offer our assistance and experience in energy code adoption and implementation to you and the State of Nevada as you work to maximize building energy efficiency. We hope that you will not hesitate to draw on RECA's support and willingness to help. Please contact me at (202) 339-6366 if you have any questions or would like to discuss how RECA can be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Lacey". The signature is stylized and cursive.

Eric Lacey
Chairman

RECA

RESPONSIBLE ENERGY CODES ALLIANCE

RECA is a broad-based consortium of energy efficiency professionals, product and equipment manufacturers, and trade associations with expertise in the adoption, implementation and enforcement of building energy codes nationwide. RECA is dedicated to improving the energy efficiency of homes in Nevada and throughout the U.S. through greater use of energy efficient practices and building products. It is administered by the Alliance to Save Energy, a non-profit coalition of business, government, environmental and consumer leaders that supports energy efficiency as a cost-effective energy resource under existing market conditions and advocates energy-efficiency policies that minimize costs to society and individual consumers.

Air Barrier Association of America

Alliance to Save Energy

American Chemistry Council

American Council for an Energy-Efficient Economy

Cardinal Glass Industries, Inc.

CertainTeed Corporation

Chemical Industry Council of Illinois

Global Green USA

Guardian Industries Corporation

Johns Manville Corporation

Knauf Insulation

National Fenestration Rating Council

North American Insulation Manufacturers Association

Owens Corning

Pactiv Corporation

Polyisocyanurate Insulation Manufacturers Association

PPG Industries, Inc.

Sierra Club

Southwest Energy Efficiency Project



Office of the Governor

JIM GIBBONS
GOVERNOR

March 23, 2009

The Honorable Steven Chu, Secretary
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

RE: Governor's Assurance Certification in accordance with the Section 410 of Recovery Act

Dear Secretary Chu:

As a condition of receiving \$34,714,000 funding for the State Energy Program ("SEP") under Section 410 of the American Recovery and Renewal Act of 2009 (H.R. 1) (ARRA), please find the enclosed signed Governor's Assurance Certification DE-FOA-0000052.

I want to assure you that the State of Nevada will meet the requirements of Section 410 of the ARRA. To amplify the attached general assurance certification, I offer the following:

For the first assurance, Nevada has been proactive and already has several provisions in the law promulgating a regulatory framework to promote energy efficiency for electric and gas utilities while maintaining on going financial incentives for many years. The policies behind these laws are as follows:

I) for electric utilities

NRS 704.741 Plan to increase supply or decrease demands: Triennial submission required; contents prescribed by regulation; requirements.

1. A utility which supplies electricity in this State shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.

2. The Commission shall, by regulation, prescribe the contents of such a plan including, but not limited to, the methods or formulas which are used by the utility to:

(a) Forecast the future demands; and

(b) Determine the best combination of sources of supply to meet the demands or the best method to reduce them.

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3. The Commission shall require the utility to include in its plan an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel. The energy efficiency program must include, without limitation, the use of new solar thermal energy sources.

(Added to NRS by 1983, 886; A 1987, 961; 2007, 2986)

NRS 704.751 Order accepting plan or specifying inadequacies; order accepting amendment to plan or specifying inadequacies; recovery of costs from customers.

1. After a utility has filed the plan required pursuant to NRS 704.741, the Commission shall issue an order accepting the plan as filed or specifying any portions of the plan it deems to be inadequate:

(a) Within 135 days for any portion of the plan relating to the energy supply plan for the utility for the 3 years covered by the plan; and

(b) Within 180 days for all portions of the plan not described in paragraph (a).

2. If a utility files an amendment to a plan, the Commission shall issue an order accepting the amendment as filed or specifying any portions of the amendment it deems to be inadequate within 135 days of the filing of the amendment.

3. All prudent and reasonable expenditures made to develop the utility's plan, including environmental, engineering and other studies, must be recovered from the rates charged to the utility's customers.

(Added to NRS by 1983, 887; A 1989, 1014; 2007, 1774)

The Public Utility Commission of Nevada (PUCN) adopted demand side regulation on May 25, 2004 to implement the law in three steps: planning, verification, and accounting/cost recovery (energy efficiency equity adder methodology).

II) for gas utilities

NRS 704.992 Establishment of methods and programs to encourage natural gas utilities to support energy conservation.

1. The Commission shall adopt regulations to establish methods and programs for a public utility which purchases natural gas for resale that remove financial disincentives which discourage the public utility from supporting energy conservation, including, without limitation:

(a) Procedures for a public utility which purchases natural gas for resale to have a mechanism established during a general rate application filed pursuant to NRS 704.110 to ensure that the costs of the public utility for providing service are recovered without regard to the difference in the quantity of natural gas actually sold by the public utility by taking into account the adjusted and annualized quantity of natural gas sold during a test year and the growth in the number of customers of the public utility;

(b) Procedures for a public utility which purchases natural gas for resale to apply to the Commission for approval of an activity relating to increasing energy efficiency or energy conservation; and

(c) Procedures for a public utility which purchases natural gas for resale to apply to the Commission for the recovery of costs associated with an activity approved by the Commission pursuant to paragraph (b).

2. The regulations adopted pursuant to subsection 1 must ensure that the methods and programs consider the recovery of costs, stabilization of revenue and any reduction of risk for the public utility which purchases natural gas for resale.

(Added to NRS by 2007, 2977)

The PUCN has already adopted regulations for the implementation of energy efficiency equity adder methodology (September 3, 2008) and energy efficiency decoupling methodology (January 22, 2009).

For the second assurance, Nevada law (NRS 701.220) enacted in 2005 has mandated that the Director of Nevada State Office of Energy (NSOE) in the Office of the Governor adopt the most recent version of International Energy Conservation Code (IECC). The policy behind this act is as follows:

NRS 701.220 Adoption of regulations for energy conservation in buildings; exemptions; applicability and enforcement; procedures for adoption.

1. The Director shall adopt regulations for the conservation of energy in buildings, including manufactured homes. Such regulations must include the adoption of the most recent version of the *International Energy Conservation Code*, issued by the International Code Council, and any amendments to the *Code* that will not materially lessen the effective energy savings requirements of the *Code* and are deemed necessary to support effective compliance and enforcement of the *Code*, and must establish the minimum standards for:

- (a) The construction of floors, walls, ceilings and roofs;
- (b) The equipment and systems for heating, ventilation and air-conditioning;
- (c) Electrical equipment and systems;
- (d) Insulation; and
- (e) Other factors which affect the use of energy in a building.

↪ The regulations must provide for the adoption of the most recent version of the *International Energy Conservation Code*, and any amendments thereto, every third year.

2. The Director may exempt a building from a standard if he determines that application of the standard to the building would not accomplish the purpose of the regulations.

3. The regulations must authorize allowances in design and construction for sources of renewable energy used to supply all or a part of the energy required in a building.

4. The standards adopted by the Director are the minimum standards for the conservation of energy and energy efficiency which apply only to areas in which the governing body of the local government has not adopted standards for the conservation of energy and energy efficiency in buildings. Such governing bodies shall assist the Director in the enforcement of the regulations adopted pursuant to this section.

5. The Director shall solicit comments regarding the adoption of regulations pursuant to this section from:

- (a) Persons in the business of constructing and selling homes;
- (b) Contractors;
- (c) Public utilities;
- (d) Local building officials; and
- (e) The general public,

↪ before adopting any regulations. The Director must conduct at least three hearings in different locations in the State, after giving 30 days' notice of each hearing, before he may adopt any regulations pursuant to this section.

(Added to NRS by 1985, 1794; A 2001, 1251, 3266; 2003, 32; 2005, 22nd Special Session, 76)

I have directed NSOE to introduce a bill and work with the 2009 Nevada Legislators and local governments for the modification of NRS 701.220 subsection 4, so that the governing body of a local government that enforces a building code shall adopt and enforce the standards adopted by NSOE as the minimum standards. This bill was prefilled as SB 73 on December 15, 2008 (<http://www.leg.state.nv.us/75th2009/Bills/SB/SB73.pdf>) and the Legislature is currently considering this measure.

I am also directing the Director of NSOE to adopt the 2009 IECC and work with local governments to develop a plan that achieves 90 percent compliance with the codes within eight years. The 2009 IECC references ANSI/ASHRAE/IESNA Standard 90.1-2007 as an option for compliance with the commercial portion of the code. This plan will include active training and enforcement programs and will measure the rate of compliance each year.

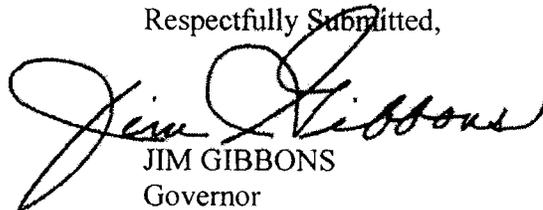
For the third assurance, we are prioritizing our energy investments to take advantage of existing programs and expand programs where appropriate. Nevada is committed to maintaining our proactive

The Honorable Steven Chu, Secretary
March 23, 2009
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legislative and executive level policies and business friendly environment toward advancement of energy efficiency and renewable energy developments. Nevada is the only state which encourages the development of LEED commercial green buildings through property tax abatements. I have issued executive orders to streamline the permitting process for renewable energy development and created the renewable energy transmission access advisory committee (RETAAC). RETAAC identified Nevada's renewable energy zones, assessed current and needed transmission lines, analyzed the land and military restrictions and the cost of needed transmission lines. We have established a 501(c)(3) organization to build these feeder lines so that our renewable energy zones can be connected to the interstate transmission lines. Furthermore, the state Legislature and I are currently considering several measures for the further development of our renewable energy resources in the state.

NSOE has been administering the SEP programs and will also administer the ARRA SEP funds. We look forward to the immediate distribution and effective use of the Federal ARRA SEP funds to permit Nevada to continue its effort in energy efficiency and renewable energy. If you or your staff requires more information, please contact Dr. Hatice Gecol, my Energy and Science Advisor and Director of NSOE at 775-684-5675 or hgecol@gov.nv.gov

Respectfully Submitted,



JIM GIBBONS
Governor

Enclosure

cc: Majority Leader Senator Harry Reid
Senator John Ensign, (R-NV)
Congresswoman Shelley Berkley, (D-NV)
Congressman Dean Heller, (R-NV)
Congresswoman Dina Titus, (D-NV)
Michael Schneider, Chairman, Senate Committee on Energy, Infrastructure and Transportation
Marcus Conklin, Chairman, Assembly Committee on Commerce and Labor
Gil Sperling, Director, Office of Weatherization and Intergovernmental Programs,
U. S. Department of Energy
David Terry, Executive Director, National Association of State Energy Officials
Dr. Hatice Gecol, Director, Office of the Governor, Nevada State Office of Energy
Jo Ann Kelly, Chairman, Public Utilities Commission of Nevada

NEVADA GOVERNOR'S ASSURANCE CERTIFICATION

By signing below, Nevada Governor is providing his written certification that he will comply with and obtain the following assurances in accordance with Section 410 of the Recovery Act.

(1) The applicable State regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, under its rate-making authority a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers' incentives to use energy more efficiently.

(2) The State, or the applicable units of local government that have authority to adopt building codes, will implement the following:

(A) A residential building energy code (or codes) that meets or exceeds the most recent International Energy Conservation Code, or achieves equivalent or greater energy savings.

(B) A commercial building energy code (or codes) throughout the State that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1-2007, or achieves equivalent or greater energy savings.

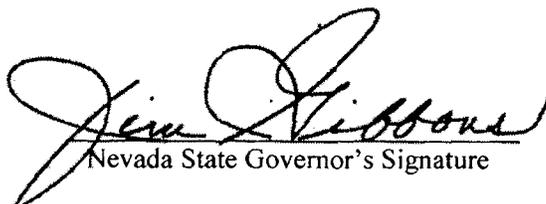
(C) A plan to achieve 90 percent compliance with the above energy codes within eight years. This plan will include active training and enforcement programs and annual measurement of the rate of compliance.

(3) The State will to the extent practicable prioritize the grants toward funding energy efficiency and renewable energy programs, including

A) the expansion of existing energy efficiency programs approved by the State or the appropriate regulatory authority, including energy efficiency retrofits of buildings and industrial facilities, that are funded by the State or through rates under the oversight of the applicable regulatory authority, to the extent applicable;

(B) the expansion of existing programs, approved by the State or the appropriate regulatory authority, to support renewable energy projects and deployment activities, including programs operated by entities which have the authority and capability to manage and distribute grants, loans, performance incentives, and other forms of financial assistance; and

(C) cooperation and joint activities between States to advance more efficient and effective use of this funding to support the priorities described in this section.


Nevada State Governor's Signature

March 23, 2009

Date