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From: Larry Spielvogel [spielvogel@comcast.net]
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To: IRRRC; Wilmarth, Fiona E.; Smith, James M.; Stephens, Michael
Subject: Uniform Construction Code

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INDEPENDENT REGULATORY
REVIEW COMMISSION

To Whom It May Concern:

Regulation Identification Number 12-89 from the Department of Labor and Industry for the Uniform Construction Code scheduled for the December 3rd IRRRC agenda should not be approved.

Without the ability to see the Pennsylvania Alternative Residential Energy Provisions, it is not possible to tell if any of the requirements preempt Federal Law, as required by paragraph 24 of the Regulatory Analysis, or if those requirements are less stringent than those in the applicable ICC Codes being adopted.

Contrary to the statement in paragraph 12 of the Regulatory Analysis, the adoption of this rule is not in accordance with and does not meet the requirements of 73 FR 79868 and 42 U.S.C. 6831 *et seq.*, which requires states to certify to the Secretary of Energy that their codes meet those requirements. Pennsylvania adoption of the Uniform Construction Code does not meet that requirement.

Subsections 403.21(a)(2)-(4) are amended to delete the reference to the *International Electrical Code*, but upon information and belief, there is no statutory requirement or authority to adopt NFPA 70, The National Electrical Code, which is essential to protecting the public health and safety and is adopted and enforced in almost every state.

Paragraph 18 of the Regulatory Analysis only sets forth the cost of buying the adopted codes themselves, without mentioning the thousands of dollars worth of mandatory references that must be purchased by or for each person and unit of local government to enable enforcement of those codes.

Contrary to the statement in paragraph 22 of the Regulatory Analysis, no opportunity was provided to the public to attend public hearings or comment to the Department of Labor and Industry.

Paragraph 23 of the Regulatory Analysis says, "No alternatives can be considered." Contrary to that statement, Paragraph 28 of the Regulatory Analysis references the Pennsylvania Alternative Residential Energy Provisions, which are adopted by the Department of Labor and Industry along with the ICC Codes. There has been no opportunity for the public or the regulated parties to see or comment on these provisions. Upon information and belief, there is no statutory requirement for these provisions to be included with the ICC Codes.

Therefore, any proposed regulation that includes the Pennsylvania Alternative Residential Energy Provisions should not be adopted until the public and the regulated parties are provided with copies, formal public hearings, and the opportunity to provide comments.

The term "First Printing" as shown with the various ICC Codes are no longer available for purchase, as there have been subsequent printings, making compliance impossible.

Since there are so many issues above and beyond those required by Pennsylvania Laws that affect tens of thousands of people, the entire proposed rulemaking (1) should be issued for public comment, and (2) subject to formal public hearings around the state before being recommended for adoption.

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