



Regulation or Restraint

What to expect from regulatory changes

by, Tom Johnson

Appellant Representative Services

Menu

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- National regulatory news
 - The National Uniformity for Food Act of 2005
 - Energy standards
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 - ADAAG, ANSI A117.1, IMC
- What's to come?
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 - Industry characteristics
 - Brief history
- ANSI and standards development organization's
- Industry involvement
- Action plan

Fast Bio

- Second generation manufacturers agent, JCA
- Own JDP, Inc, a food safety-defense specialty distributorship and consultancy focused on prevention and green tech
- Brands include
 - Activ-ion, BioGuard Plastics, Qvent, HACCP store.com
- Products include
 - antimicrobial material science products
 - Electro chemical reactors that produce anolyte and catholyte solutions on-site, on demand
 - CKV optimized branded solutions; patent holder
- Services
 - Appellant representative, board of appeal and trade restraint litigation
 - Bio and chemical hazard remediation protocols, systems and training
 - Strategic sales and marketing of innovating safety and prevention products and systems
 - AglON and ECT Intl, strategic marketing and prod development
 - Other

Federal pre-emption

109TH CONGRESS
1ST SESSION

H. R. 4167

To amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 27, 2005

The National Uniformity for Food Act of 2005

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Uniformity
5 for Food Act of 2005”.

6 **SEC. 2. NATIONAL UNIFORMITY FOR FOOD.**

7 (a) NATIONAL UNIFORMITY.—Section 403A(a) of the
8 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–
9 1(a)) is amended—

“(1) IN GENERAL.—Except as provided in sub-
sections (c) and (d), no State or political subdivision
of a State may, directly or indirectly, establish or
continue in effect under any authority any notifica-
tion requirement for a food that provides for a warn-
ing concerning the safety of the food, or any compo-
nent or package of the food, unless such a notifica-
tion requirement has been prescribed under the au-
thority of this Act and the State or political subdivi-
sion notification requirement is identical to the noti-
fication requirement prescribed under the authority
of this Act.

Statement of need and reasonableness (SONAR)

- Nation needs uniform interpretation and enforcement of science based food rules to improve health and decrease costs
- Fewer inspectors; less government oversight (reduced big brother)
- More self control; negligence begets financial disaster
 - Increased accountability
 - Guaranteed strict liability

NEHA's response

February 5, 2006

Dear Representative Ramstad,

I am writing to express the deep concerns that I have regarding H.R. 4167 "*The National Uniformity for Foods Act of 2005*". I present these concerns on behalf of the Board of Directors and the membership of The National Environmental Health Association (NEHA).

For sixty-nine years, NEHA has been the lead organization to represent the tens of thousands of environmental health professionals who work in public health programs throughout our nation. NEHA is a not-for-profit professional society. We include within our membership public/environmental health professionals who work at the federal, state and local levels of government and in industry. A significant portion of our membership practices environmental health in the area of food safety and protection. These individuals staff and manage thousands of food safety/protection programs through out the United States that enforce and assure compliance with both local and state food safety codes and regulations. *These professionals, more than any other group in our public health system, are responsible on a daily basis for protecting our citizens from the illness and even death that can occur from the consumption of unsafe and/or adulterated food.*

Energy

APPLIANCE Efficiency Regulations



January 2006
CEC-400-2096-002



Governor Arnold Schwarzenegger

Table A-2
Commercial Refrigerator, Refrigerator-Freezer, and Freezer Test Methods

Appliance	Test Method	
Automatic commercial ice-makers	ARI 810-2003 Harvest rate (lbs. of ice/24 hours) shall be reported within 5% of the tested value.	
Refrigerated bottled or canned beverage vending machines	ANSI/ASHRAE 92.1-2004 Volume of multi-package units shall be measured using ANSI/AHAM HRF 1-1979	
Refrigerated buffet and preparation tables	ANSI/ASTM F2143-01	
Other self-contained commercial refrigerators, refrigerator-freezers, and freezers, with doors	Volume shall be measured using ANSI/AHAM HRF 1-1979. Energy consumption shall be measured using ANSI/ASHRAE 117-1992, except that the back (loading) doors of pass-through and roll-through refrigerators and freezers shall remain closed throughout the test, and except that the controls of all appliances shall be adjusted to obtain the following product temperatures:	
	Type	Integrated Average Product Temperature (Section 9.1.1) in ° F
	Refrigerator Compartment	38 ± 2
	Freezer Compartment	0 ± 2
	Wine chiller	45 ± 2
Ice Cream Cabinet	-5 ± 2	
Other self-contained commercial refrigerators, refrigerator-freezers, and freezers, without doors	Volume measured using ANSI/AHAM HRF 1-1979 Energy consumption measured using ANSI/ASHRAE 72-1998, with the controls adjusted to obtain the following product temperatures:	
	Type	Integrated Average Product Temperature (Section 9.1.1) in ° F
	Refrigerator Compartment	38 ± 2
	Freezer Compartment	0 ± 2
	Wine chiller	45 ± 2
Ice Cream Cabinet	-5 ± 2	

FOG

Grease Control

El Control de Grasa y Aceite

- ▶ Food waste from cookingware and plates goes in the trash, not down the drain.

Tire las sobras de las ollas, sartenes y platos en la basura, NO en el desagüe del fregadero.

- ▶ Disconnect or minimize the use of garbage disposals.

Desconecte o haga uso mínimo del triturador de basura.

- ▶ Use a fine mesh screen (1/8 or 3/16 inch) in sink drains to catch solids.

Para que las sobras no se vayan en el desagüe del fregadero, use un filtro de malla fina (1/8 o 3/16 pulgadas).

- ▶ Dispose of liquid grease and oil into a waste container for recycling.

Heche la grasa y aceite en un envase especial para que sea reciclado.

- ▶ Inspect grease traps at least monthly and clean regularly.

Inspeccione las atrapadoras de grasa por lo menos una vez al mes y límpielas con regularidad.

Environmental stewardship has been an integral part of Colorado Springs Utilities' business for decades. Protecting and preserving the environment is an expectation of our citizen-owners and a commitment we have made to our community.

Por décadas la administración de las utilidades de Colorado Springs, han participado con los negocios para la protección y preservación del medio ambiente. Es una promesa hecha a los ciudadanos-propietarios de nuestra comunidad.

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FATS, OIL AND GREASE (FOG) CONTROL PROGRAM

Summary of the FOG Control Ordinance Requirements:

- All FSEs* that generate waste FOG are required to obtain an Industrial Wastewater Permit.
- Each FSE is subject to a one-time \$356 Industrial Wastewater Permit Application Fee, and then annually an Inspection & Control Fee.
- All newly constructed FSEs must install a grease interceptor.
- All FSEs performing a remodeling, valued at \$100,000 or more, must install a grease interceptor.
- All FSEs performing a remodeling, valued less than \$100,000 may be required to install a grease interceptor.
- All FSEs are required to implement Best Management Practices (BMPs) for clean kitchens.
- The use of garbage grinders in FSEs is prohibited, unless specifically allowed by the Director of the Bureau of Sanitation.
- Any FSE that is known to cause grease-related sewage spills or fails to implement BMPs will be required to install a grease interceptor.
- As a result of space or sewer slope limitations, variances from grease interceptor installation requirements may be available.

* FSE - Food Service Establishment shall mean a facility engaged in preparing food for consumption by the public such as a restaurant, commercial kitchen, caterer, hotel, school, hospital, prison, correctional facility, or care institution. This includes bakeries, donut shops, public and private schools.



City of Los Angeles,
Department of Public Works
Bureau of Sanitation
Industrial Waste Management Division
Fats, Oil & Grease Control Program
(323) 342-6118 / 6200



ADA

Building Codes and the Americans with Disabilities Act

The International Building Code can help state and local governments comply with the Americans with Disability Act Accessibility Guidelines (ADAAG).

Background

The Americans with Disability Act (ADA) of 1990 recognizes and protects the civil rights of people with disabilities. The law was modeled after earlier landmark laws prohibiting discrimination on the basis of race and gender. It covers a wide range of disabilities, from physical conditions affecting mobility, stamina, sight, hearing and speech, to conditions such as emotional illness and learning disorders. The ADA addresses access to the workplace (Title I), state and local government services (Title II), and places of public accommodation and commercial facilities (Title III). It also addresses telecommunications services for people with hearing and speech impairments (Title IV) and provides instructions to federal agencies that enforce the law (Title V). Regulations issued under the different titles by federal agencies, including the U.S. Department of Justice (DOJ) and the U.S. Department of Transportation (DOT), set requirements and establish enforcement procedures.

What Federal Law Requires

Under Titles II and III of the ADA, the U.S. Architectural and Transportation Barriers Compliance Board (ATBCB or Access Board) develops and maintains accessibility guidelines for buildings, facilities and transit vehicles. The Access Board also provides technical assistance and training on the guidelines. ADAAG is the basis of standards issued by DOJ and DOT to enforce the law. The building guidelines cover places of public accommodation, commercial, state and local government facilities. Regulations issued by DOJ and DOT contain standards based on ADAAG and also provide important information on which buildings and facilities are subject to the standards. It is important that the regulations be used along with the design standards they contain or reference.

Is ADA part of plan review?

- ADA Accessibility Guidelines (ADAAG)
- Fair Housing Act
 - Safe Harbor
- Housing and Urban Development (HUD)
- ICC/ANSI A117.1 (Building Code)
 - Certified Equivalents, by State
 - Maine, Maryland, Florida, Texas, Washington State
 - Arizona, Utah
 - City of Phoenix
- IAPMO UMC, NFPA 5000 ?

ADAAG

The Access Board has been an active participant on the committee that develops the ICC/American National Standards Institute (ANSI) A117.1 Standard, *"Accessible and Usable Buildings and Facilities."* A major objective of the Access Board and the ICC/ANSI A117 Committee is to harmonize ADAAG and the Standard. The ICC committee will incorporate the revised ADAAG changes into the Standard when it is published.

The Access Board also participates in I-Code and ICC Standards development activities, including the development of the IBC. The IBC includes provisions affecting accessibility such as: mainstreamed accessible elements, accessible means of egress and scoping provisions for the ICC/ANSI A117.1 Standard. When the revised ADAAG is published and adopted by DOJ, adopting the IBC will provide a unique opportunity for states to have accessibility standardized and integrated into the building code

Satisfying the Law through the International Building Code

Title III of the ADA authorizes DOJ to certify that state laws, local building codes, or similar ordinances meet or exceed ADAAG. Title III applies to public accommodations and commercial facilities, including most private businesses and non-profit service providers.

Examples of covered businesses are:

restaurants

banks

movie theaters

stadiums

grocery stores

convenience stores

health care facilities

medical offices

In many cases, these facilities are also subject to accessibility requirements established under state or local building codes. To facilitate compliance with federal, state and local laws, the ADA authorizes DOJ, upon request from state or local officials, to certify that state or local accessibility laws meet or exceed the requirements of the ADA. To comply with the federal law, each state can individually develop, adopt and implement its own accessibility requirements and apply to the DOJ for acceptance.

DO REQUIREMENTS IN THE IBC MATCH THOSE FOUND IN FEDERAL LAWS THAT DEAL WITH ACCESSIBILITY?

The ICC has been working with the Department of Justice (DOJ), the U.S. Architectural & Transportation Barriers Compliance Board (a.k.a. Access Board) and the Department of Housing and Urban Development (HUD) to coordinate the accessibility requirements found in the *Americans with Disabilities Act Accessibility Guidelines (ADAAG)* and the *Fair Housing Accessibility Guidelines (FHAG)*. HUD has reviewed the IBC as a "safe harbor" document for compliance with the FHAG. ICC has asked the DOJ for technical assistance in evaluating the 2003 IBC for compliance with the current ADAAG. In addition, the ICC has been working with the Access Board throughout the development of the new ADA/ABA Guidelines for coordination between the two documents. It is ICC's goal to meet or exceed the requirements of these two federal laws that cover building and facility access. Information on the ongoing evaluations is published on the ICC Web site, www.iccsafe.org/accessibility.

HOW ARE BUILDING CODES ENFORCED?

The code enforcement process is normally initiated by an application for a permit to construct or remodel a building. The code official is responsible for processing applications and issuing permits for construction or modification of buildings in accordance with the building code. The code official will review the construction drawings for code compliance, as well as perform inspections during the construction phase. If a deficiency exists or if the building or a component does not comply with code requirements, it is the responsibility of the code official to issue orders to

correct the illegal or unsafe condition. These corrections must be completed and approved before the building may be occupied.

WHAT IS THE ADVANTAGE OF USING THE MODEL BUILDING CODES?

Model building codes are continually updated so they can take advantage of new technologies, new ideas and specific situations. In addition, the requirements in the building code are addressed as part of the design and construction process, when it is easier and more cost effective to fix problems. It can also lead to greater compliance with the accessibility provisions because of the local contact, review and inspections done by the code official. Finding problems after the building is occupied can lead to expensive retrofits as well as delays in operation for the building users/occupants.

For more information visit
www.iccsafe.org/accessibility
or write

International Code Council
Chicago District Office
Codes and Standards Department
4051 West Flossmoor Road
Country Club Hills, IL 60478-5795



About the International Code Council

The International Code Council® (ICC®), a membership association dedicated to building safety and fire prevention, develops the codes used to construct residential and commercial buildings, including homes and schools. Most U.S. cities, counties and states that adopt codes choose the International Codes® developed by the International Code Council.



BUILDING CODES AND ACCESSIBILITY REQUIREMENTS



WHAT IS A MODEL BUILDING CODE?

A model building code is a collection of documents that are referenced as minimum requirements for the construction and alteration of buildings. The health and safety of the building users are the concerns addressed. The model building code embraces all aspects of building construction, including accessibility for people with physical disabilities.

WHO NEEDS A BUILDING CODE?

We all do — whether in our homes, offices, schools, stores, factories or places of entertainment. The code's regulations range from fire and structural safety to health, security, energy conservation, accessibility and other issues of public welfare.

HOW IS A CODE DEVELOPED?

The model building codes generated by the International Code Council (ICC) are published every three years. Two complete cycles of code change proposals move through a special hearing process between each edition. Decisions on proposed code changes are made during a regulated public hearing and voting process. Through this development process, model codes provide due process for all persons affected and keep pace with rapidly changing technology. Any person or group can propose a code change to one or more of the *International Codes*®. Participating in this process can start with a visit to the ICC web site, www.iccsafe.org under "Code Development," or write to us at International Code Council, Codes and Standards Department, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795.

HOW IS A BUILDING CODE ADOPTED?

The authority having jurisdiction, typically a township, city, county or state, passes an ordinance or law concerned with minimum standards for building construction. Jurisdictions use model codes as a reference documents so they do not have to create and maintain their own set of requirements. An ordinance will reference a specific edition or each adopted code (e.g., 2003 *International Building Code*®).

WHERE ARE THE PROVISIONS FOR ACCESSIBILITY LOCATED IN THE INTERNATIONAL BUILDING CODE® (IBC®)?



Chapter 11 of the IBC is titled "Accessibility." This chapter contains a good portion of the "scoping" requirements related to access into and through buildings for persons with physical disabilities. Scoping issues are the "what, where and how

many" of an element that is required to be accessible. However, some accessibility issues are also related to general safety issues and have been "mainstreamed" into other areas in the code. For example, the provisions limiting protruding objects are found in Chapter 10 and visible alarms are found in Chapter 9.

The IBC relies on reference to a nationally recognized standard for technical requirements, or the "how" to make elements accessible. This standard is ICC/ANSI A117.1, *Accessible and Usable Buildings and Facilities*.

WHAT IS THE SCOPE OF ACCESSIBILITY PROVISIONS IN THE IBC?

The IBC requires all new construction to be accessible. Chapter 11 provides for a series of exceptions that allow for a level of nonaccessibility that is reasonable and logical. For example, the IBC does not require vehicle parking spaces, but when parking is provided, the building code specifies how many spaces must be constructed accessible and where they should be located. The IBC then relies on the referenced technical standard, ICC/ANSI A117.1, for the width, surface slope, and signage for the accessible parking spaces.

The IBC addresses issues that allow a person with a physical disability to get to, enter and independently use a site, facility, building or element and to access the routes for emergency exiting. The IBC includes special requirements for specific uses such as dwelling units, assembly seating, judicial facilities, recreational facilities and self-service storage facilities. The IBC includes provisions for special items such as bathrooms and kitchens, storage facilities, seating at tables, counters and work surfaces, service facilities, operating controls and signage.

When renovations are being performed, there is the opportunity to improve accessibility. While meeting new construction requirements is the ideal, alternatives are available giving consideration to cost, technical feasibility or historical significance. The goal is that all existing buildings will become fully accessible over time. Requirements for existing buildings are found in Chapter 34 of the IBC or the *International Existing Building Code*® (IEBC®).

[North Carolina]

- Major on-going battle between NC Dept of Insurance Fire Marshall Div (in Raleigh) and Mecklenberg County (Charlotte)
- County Sue's State over States insistence on UL electrical component safety requirement.
- County wants to accept CE certifications, says State is restraining trade
- County takes out angst against the construction industry delaying CO, and interfering with legitimate rights to market access
- Many people employed spending tax money fighting amongst themselves forsaking public health and safety

[LA (my opinions only...)]

- City of LA Dept of BS (building safety)
- Largest “engineering” bureaucracy in nation, maybe the world
- Charge fee’s before approval of any equipment, even when listed for specific use
- Charge fee’s to “recognize” certification labs
- No accountability; discretionary immunity
- No appeals process; just excellent collection services.

[What's next? ...is up to *US!*]

- Lead or chase (or be chased)?
- Develop or defend?
- Educate or memorize?
- Bend over or stand together to defend freedoms?

[Unique Industry Characteristics]

- **Daily interaction for every person** in civilized world
- **Largest industry in the world**; dependants, POPs
- **Food prep and service areas are fraught with dangers**
 - slip/fall, cut, burn, cross contamination
 - asphyxiation, electrocution, fire.
- **Most heavily regulated industry in the U.S.** and world
- **More authorities and agencies having jurisdiction** than nuclear power plant or surgery center, in greatest numbers too. (most are unionized, all have “associations”)
- **More rules to protect public health** and safety than any other specialty; *opinions* enforced by local agency
- **More energy consumed per sq foot of space** beneath the hood than any other space in bldg.

[Laws and Codes]

- Statutes are “state laws” enacted (adopted) by a State legislature
- Codes are “administrative rules” adopted by an administrative law judge that is the governments attorney representing the agency charged with the codes enforcement
 - State department of commerce/administration
- Incorporated local governments have licensing and permitting authority, and the tax levy and fee authority that goes with it.

[Codes and Standards]

- Model codes are supposed to be developed by consensus process
 - ISO65/IEC composition
- Standards are supposed to be test methods to determine whether the design of a product or system is safe given its intended worst case use

[Enforcement]

- Without public health and safety codes, enforcement and rights for litigation:
 - There would be no ROI for equip mfgs/dealers, no “industry”.
 - The only rules would be to protect friends, family...corruption
 - Anything would go and everything would go
- Inspectors are industries **GREATEST** allies...no EQ industry without enforcement

[No rules -No industry]

1997



Standards and Certification

- Standards development organizations (SDO's) write test methods to ANSI (ISO)
 - NSF/ANSI sanitation standards
 - UL/ANSI EQ and component performance standards
 - NFPA, AGA, ASTM, ASSE, etc.
- Certification agencies
 - NSF, UL EPH, ETL (ITS) AGA/CSA
 - CE in Europe is self administered...not treated as equivalent

Certification and Evaluation

- Products and systems are listed by certification bodies to applicable ANSI (or non-ANSI) standards
- Evaluation Services (ES) are divisions of governmental agencies or their trade associations
 - Examples
 - City of LA Dept of Building safety, NY MEA
 - IAPMO, ICC Evaluation Services (ES)
 - They are not impartial; *they are public servants and code cops*
- Stated intent was to evaluate “Alternate Methods and Materials” submittals to building officials
- Big revenues have drawn them to expand to where they now compete with certification agencies
- They dilute market value of listed products
- No liability/accountability due to principals discretionary immunity

[Codes Relating to Food]

- FDA Food Code (HHS)
- Mechanical codes
 - ICC and IMC
 - ADAAG = ICC/ANSI A117.1, *Accessible and Usable Buildings and Facilities.*
 - IAPMO and UMC
 - NFPA

[ICC's self imposed *due process*]

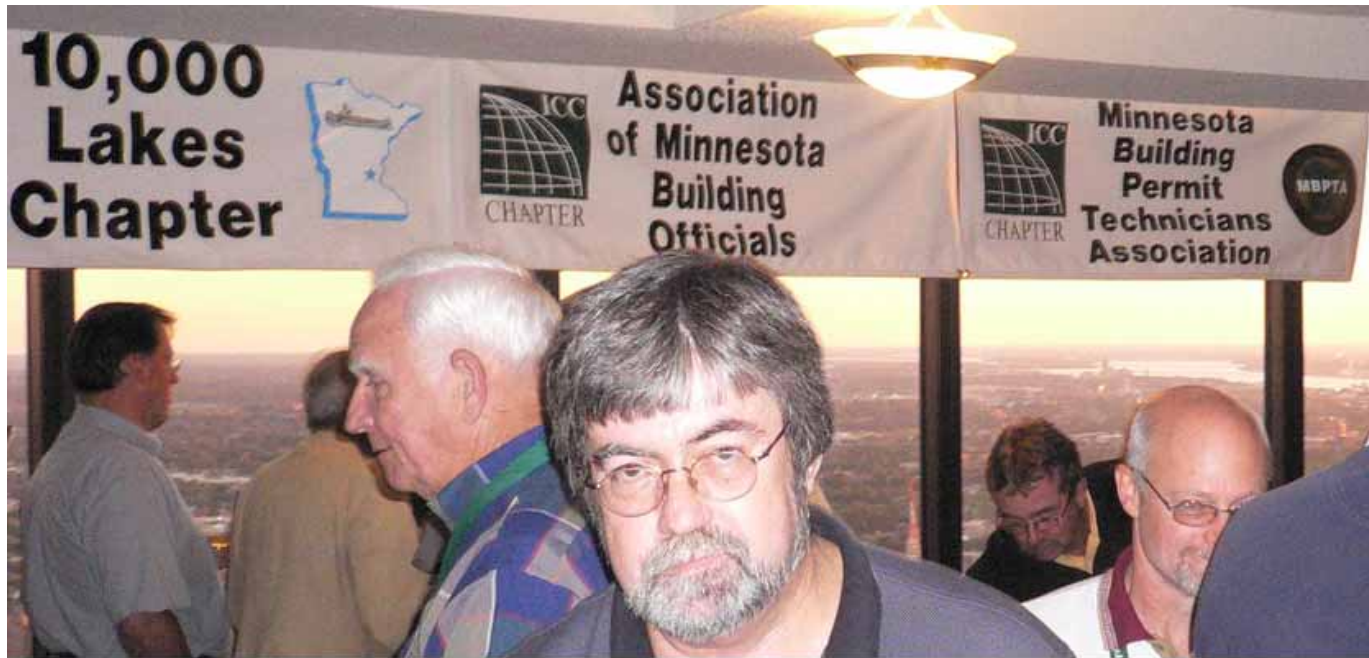
“

- Decisions on proposed code changes are made during a regulated public hearing and voting process. Through this development process, model codes provide due process for all persons affected and keep pace with rapidly changing technology. Any person or group can propose a code change to one or more of the *International Codes*®. ”

REALLY?

Trade Associations...

- Officials, staff, labor; all have representation in the rule process...



- Industry has NO representation; no vote.

April 18th, 2005

A Call To Action!

The International Code Council held their annual code revision hearings in Cincinnati in late February. Among the proposed revisions was a re-write to the following International Mechanical Code (IMC) section:

507.2.1.1 Operation. Type I hood systems shall be designed and installed to automatically activate the exhaust fan whenever cooking operations occur. The activation of the exhaust fan shall occur through an interlock with the cooking appliances, by means of heat sensors or by means of other approved methods.

[ICC

- Before lunch



- After Lunch



Result:

- “hoods must turn on automatically when cooking equipment is turned on”
- Interpretations will proliferate
 - Sensors at fan, in duct at duct collar or between appliance and hood
 - Interlocks to hood light switch (but if lights are not turned on, can still cook)
- Proponents claimed people cook without turning on their hoods (fans) inferring a hazard, but presented no evidence

[In General]

- Regulators lack the knowledge necessary to adequately analyze hazards for various distinct categories of use and innovations interventions...not accountable any way.
- Regulators make rules **with or without** industry input
- Local governments flex their muscle to the State, and the State to the Feds; industry and citizens get squeezed
- Operators concern about overly restrictive codes and interpretations begins with permit application and ends with the certificate of occupancy because;
 - They feel intimidated and fear retribution
 - They feel helpless, and fear lost time and money
 - Can't beat City Hall attitude, besides, there are too many of them
- Operators/contractors get no help from associations

[SONAR (Reason) Statement ?]

M60-04/05 **507.2.1.1 (New)**

Proponent: Guy Tomberlin, Fairfax County, VA, representing Virginia Plumbing and Mechanical Inspectors Association/Virginia Building and Code Officials Association

Add new text as follows:

507.2.1.1 Operation. Type I hood systems shall be designed and installed to automatically activate the exhaust fan whenever cooking operations occur. The activation of the exhaust fan shall occur through an interlock with the cooking appliances, by means of heat sensors or by means of other approved methods.

Reason: Current code provides no requirement that an exhaust system ever needs to be in operation when the cooking operation takes place. The proposed text achieves exhaust operation regardless of the type of appliance or the fuel used. Hoods are required and they must be required to perform their intended function when needed.

Cost of proposed change: None

[The vote of the committee..]

M60-04/05

Committee Action:

Approved as Submitted

Committee Reason: This change appropriately covers all of the fuels and makes the IMC consistent with the IFGC.

Assembly Action:

None

Industry Consensus Standards Development Organization

- ISO 65/IEC, ANSI; three equal groups
 - Consumer advocates and service users
 - Industry representatives
 - Regulatory authorities
- UL follows ANSI/ISO model with its STP's
 - Producers (manufacturers)
 - Users (contractors, regulatory, operators)
 - General interest (Experts, engineers, consumer advocacy)
- ICC, IAPMO do not... only regulators vote!!
- Consensus assures balance, focus and fairness

ICC and IAPMO do not comply with ANSI

- Industry and public have no vote, no voice
- Regulators have their own financial agenda for propagating codes and their evaluation services for fee, without representation!
- Government is competing with private non-profit certification agencies through their evaluation for fee services (ES)...

[NFPA 96 Limits?]

Tracy Kilmer

From: "Lake, Jim" <jlake@NFPA.org>
To: "Tracy Kilmer" <tkilmer@boroughofpalmyra.com>
Cc: "Caron, Maureen" <mcaron@NFPA.org>
Sent: Thursday, February 17, 2005 11:37 AM
Subject: RE: NFPA 96

You are correct, NFPA 96 does not establish any threshold on the amount of grease laden vapor produced. Therefore any appliance that produces grease laden vapor would fall under the scope of NFPA 96. The EPA standard is an environmental standard not a fire safety standard. Allowable grease laden vapor production under the EPA standard has no bearing on NFPA 96.

Best Regards
James D. Lake
Senior Fire Protection Specialist
NFPA

Important Notice: This correspondence is not a Formal Interpretation issued pursuant to NFPA Regulations. Any opinion expressed is the personal opinion of the author, and does not necessarily represent the official position of the NFPA or its Technical Committees. In addition, this correspondence is neither intended, nor should be relied upon, to provide consultation or services.

Your proposal to install the Tu [REDACTED] en without a Type II hood at 423 Ly [REDACTED] does not meet the requirements of the Mechanical Code of the City of St. Louis. Sections 507.1 and 507.2 of the 2000 International Mechanical Code as amended by Ordinance #65021 state:

507.1 General. Commercial kitchen exhaust hoods shall comply with the requirements of this section. Hoods shall be Type I or Type II and shall be designed to capture and confine cooking vapors and residues. . . .

507.2 Where required. A Type I or Type II hood shall be installed at or above all commercial food heat-producing appliances. A Type II hood shall be installed above commercial dishwashing machines.

Exceptions:

1. Food heat-processing appliances installed within a dwelling unit.
2. Under-counter-type commercial dishwashing machines.
3. Portable cooking appliances. Any portable cooking appliance which the manufacturer recommends venting must be vented according to Sections 506 and 507.

- No exception for processes producing limited amounts of particulate; no measure
- Portable hot food warmers NOT excepted...

4. Mr. Johnson testified that the effluent from the warmer is below the EPA 202 standard threshold, which has been adopted by a Tentative Interim Amendment to NFPA 96 Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations.
5. Mr. Johnson did not dispute that the warmer would produce some grease vapors, but only that the amount would be below a reasonable threshold standard, such as those he listed.
6. The applicable standard for New Jersey is the International Mechanical Code 2000, which was the subject of FTO-15 of the Uniform Construction Code. The FTO repeats and expands upon the IMC language at 507.2 and 507.2.1. "A Type I or Type II hood shall be installed at or above all commercial food heat-processing appliances." "A Type I hood shall be installed at or above all commercial heat-processing appliances that produce grease vapors or smoke." "Commercial food heat-processing appliances" are defined as "appliances used in food-processing establishment for heat processing food or utensils, and which produce grease vapors ... that are required to be removed through a local exhaust ventilation system." The FTO lists several appliances that do not produce the amount of heat or steam that would burden the HVAC systems and do not require a Type II hood.
7. International Building Code 2000 section 904.2.1 Hood System Suppression states, "Each required commercial kitchen exhaust hood and duct system required by the *International Fire Code* or the *International Mechanical Code* to have a Type I hood shall be protected with an approved automatic fire-extinguishing system installed in accordance with this code." Section 904.11 states in part, "Automatic fire-extinguishing systems of the following types shall be installed in accordance with NFPA 96..."
8. In New Jersey, IMC 2000 and UCC FTO-15 specify which installations require Type I hoods, and the IBC 2000 and NFPA 96 tell how those systems are to be installed.
9. The Board finds that IMC 2000 and UCC FTO-15 do not list a threshold standard for the amount of grease-laden vapors that trigger the requirement for a Type I hood.
10. The Board finds that any grease-laden vapor requires a Type I hood under the code adopted by New Jersey.

Appeal board says without std limit, ANY grease laden vapor requires Type I hood

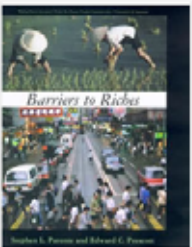
Language indicative of industries absence...

- International Fire Code states

[M] 610.2 Where required. A Type I hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors.

- Hazard logic SHOULD follow;
 - If fire hazard, then fire system
 - If fire system, then Type I

Why isn't the whole world as rich as the US?



Barriers to Riches

Stephen L. Parente and Edward C. Prescott

Why isn't the whole world as rich as the United States? Conventional views holds that differences in the share of output invested by countries account for this disparity. Not so, say Stephen Parente and Edward Prescott. In *Barriers to Riches*, Parente and Prescott argue that differences in Total Factor Productivity (TFP) explain this phenomenon. These differences exist because some countries erect barriers to the efficient use of readily available technology. The purpose of these barriers is to protect industry insiders with vested interests in current production processes from outside competition. Were this protection stopped, rapid TFP growth would follow in the poor countries, and the whole world would soon be rich.

Barriers to Riches reflects a decade of research by the authors on this question. Like other books on the subject, it makes use of historical examples and industry studies to illuminate potential explanations for income differences. Unlike these other books, however, it uses aggregate data and general equilibrium models to evaluate the plausibility of alternative explanations. The result of this approach is the most complete and coherent treatment of the subject to date.

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- Because they erect barriers to protect insiders with vested interest; power and greed
- Because of ignorance and its twin, arrogance

Outcomes?

- If no collaboration and no effort
 - Many more bad rules, barriers and restraints to thwart innovation and trade; death of NUFA 2005
 - More fee's, levies and taxes without health/safety gains
 - More cost, waste, competition
 - More product and business failures
 - Diminished total factor productivity nationwide
- If we collaborate and invest in finding unified voice:
 - Reasonable rules, unbridled innovation
 - More self governance and reliance
 - Improved ROI's, enhanced growth potential
 - Stronger competitive position in global economy

Action Plan

- Realize your actions (or lack thereof) impacts your career and future.
- Encourage YOUR *trade associations* to get together to gain a seat at the consensus table
 - NRA, NAFEM, FEDA, FMI, NAMA, AIA, CSI, ASHRAE, MAFSI, FCSI, AGA, GAMA
- If Trade Associations do not feel its their charter...LETS MAKE A NEW ONE
- Form a coalition to lobby for ONE consensus industry voice
- **Demand** ISO65/IEC composition of model code and standards committees by lobby of legislators
- Lobby legislators to **get big government out** of the equipment or system evaluation business forever

[Thank you...]



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