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State Compliance Requirements & Resources for ARRA Building Energy Code Provisions January 2011

With implementation of the American Recovery and Reinvestment Act (ARRA) well underway, several states have been inquiring about building energy code adoption and enforcement in the law's provisions and strategies for compliance.

Can you explain the building energy code conditions that the states must comply with for accepting the ARRA SEP funding?

The ARRA section on State Energy Program (SEP) funding included a statutory provision (Section 410) linking SEP funding to building energy code adoption and enforcement. As a condition of accepting the ARRA funding, the states provided assurances through governor's letters indicating their state would comply with the terms of Section 410. Therefore, the states have committed to do three things relating to building energy codes:

- a) Adopt a building energy code for residential buildings that meets or exceeds the 2009 International Energy Conservation Code,
- b) Adopt a building energy code for commercial buildings and high rise residential that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1-2007, and;
- c) Develop and implement a plan, including active training and enforcement provisions, to achieve 90% compliance with the target codes by 2017, including measuring current compliance each year.

What actions should states take to comply with these target code provisions?

The states and local building energy code adoption procedures vary broadly across the country. While ARRA includes no specific date by which states must adopt the compliant target building energy codes, the ARRA does specify that state plans for demonstrating 90% compliance with the codes should be designed to achieve that compliance level within 8 years, i.e. by 2017, from passage of ARRA. In order to ensure compliance with the law, it is in a state's best interest to begin the process of adopting the target codes or better, as soon as possible. Also, States and jurisdictions need to have in place a process to accurately and consistently assess how well buildings are complying with their building energy codes by 2017. States will need to begin assessing their rate of compliance with the target codes now, in order to ensure a functional and accurate process, as well as sufficient compliance by 2017.

What should states be doing if they have not yet adopted the target codes?

Currently, approximately 30% of states have adopted codes that “meet or exceed” the target code. In addition, a number of other states have plans underway to adopt more stringent model energy codes or increase the stringency of their building energy codes to the target codes. All states are encouraged to put in place a strategy and schedule for adopting the target codes.

Even though a state may have not yet adopted the target codes, they are encouraged to assess compliance with their existing codes. Undertaking state-specific code-compliance assessments will demonstrate compliance rates and identify issues and possible needs of the code community, the construction industry and local jurisdictions. However, unless a compliant building energy code addressing both residential and commercial buildings is adopted in the state, it will be extremely difficult to provide compliance statistics that are based on the target codes.

What should states be doing to increase code compliance?

Training and enforcement have been shown to be key components in code compliance rates. Efforts to make improvements in these areas are best accomplished in tandem with the adoption of new codes. In addition, it is important that code enforcement is evaluated to identify opportunities for improvement. These may include adding additional staff or resources, reevaluating the support provided to local governments, and establishing feedback loops so training is informed by issues met in the field.

What resources are available to help with code adoption and compliance?

DOE’s Building Energy Codes Program has developed a suite of guidelines, training, and tools to help states better prepare to meet the code-compliance requirements and improve energy efficiency. A number of tools and guidance materials are available to help states with compliance assessments at http://www.energycodes.gov/arra/reaching_compliance.stm. In addition, DOE has funded pilot activities in a number of states and the regional energy efficiency organizations to also assist in compliance assessments.

Another important resource for education and policy/implementation assistance is the Building Codes Assistance Project (BCAP). BCAP also hosts a best practice website for the code community (On-line Code Environment and Advocacy Network - OCEAN) at <http://bcap-ocean.org/>.

If you have comments or information that you wish to share relating to building energy code compliance and strategies, or are looking for similar information, please **comment below**.

Content is courtesy of *Brian Henderson, Southeast Regional Coordinator, NASEO* and *Aleisha Khan, Executive Director, BCAP*

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