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Energy Department Reveals Strings Attached, Asks States to Comment

June 5, 2009, Anchorage, Alaska - The U.S. Department of Energy (DOE) confirmed today there are strings attached to stimulus package funds. DOE is now inviting states to comment on a draft document that they developed for measuring and demonstrating compliance with those strings attached to universal building code provisions of the American Recovery and Reinvestment Act (ARRA). Last month, Governor Sarah Palin vetoed the \$28.6 million in federal stimulus funds tied to adoption of building codes by municipalities.

DOE has repeatedly stated some energy funds are directly tied to the statewide adoption of new federal energy-efficiency codes. [Section 410(a)(2); March 12, 2009, DOE Guidance Manual, p.8, p.10, 25-26, p.33-34, Attachment 3; April 24, 2009, DOE Guidance Manual, p.8, p.10, p.25-26, p.33-34.] The codes in question are the 2009 International Conservation Code for residences and the 2007 American Society of Heating, Refrigerating and Air-Conditioning Engineers' code for commercial buildings throughout the state.

As there is no statewide energy code, compliance by all local jurisdictions would include even Alaska's 114 second-class and mostly rural communities. Full compliance with the strict new codes, which regulate even the type of lighting that can be installed, would cost Alaskans thousands of dollars per new home or renovation.

"We took issue with Washington's universal building codes mandate and said they were unacceptable for Alaska," Governor Palin said. "Eventually, bureaucrats at DOE admitted the requirements were 'not appropriate' and offered funding if I would just push the codes on all our communities. I believe in local control, so I said no. Now, in the most recently issued statement on the subject by DOE, the requirements are back, clearer than ever."

The June 1, 2009, DOE "State Compliance Evaluation Rev 2" says in pertinent part:

"The Department of Energy's ... funding opportunity contains the following conditions:

"[Section 410(a)(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.”

“While the ‘State Compliance Evaluation Rev 2’ is not final, it demonstrates DOE’s continued efforts to force federal energy codes, enforcement costs, and compliance costs that will act as a mandatory tax on Alaskans building or renovating a new home,” Governor Palin said. “Alaskans should continue to have the freedom to adopt, not adopt, amend, or rescind any type of building code they choose.”

The DOE document also sets out draft guidelines for policing building codes in remote, rural villages and in towns that have said no to building codes. This would include items such as checking whether communities require energy code documentation prior to issuing a building permit, conducting plan reviews for energy code compliance, and using inspectors specifically trained in the requirements of the energy building code. Suggested compliance methods include on-site audits of randomly selected communities and buildings by inspectors.

A copy of the DOE draft document can be found at:

http://www.gov.state.ak.us/pdf/StateComplianceEvaluation_Rev2.pdf

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