



## **Office of the State Fire Marshal**

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TO: All Interested Parties

DATE: August 10, 2007

SUBJECT: Clarification of Amendments to Part 100 – Fire Prevention and Safety Code

The OSFM believes that the Illinois Municipal League (IML) in addition to numerous other organizations may have misinterpreted and subsequently disseminated wrong information about the effect of the amendments to Part 100 of our Administrative Rules [41 Ill. Admin. Code 100]. The purpose of this letter is to correct any misinformation and provide a factual overview of the effects of the changes to the agency's administrative rule.

### **No Statewide Building Code**

The Office of the State Fire Marshal (OSFM) is NOT attempting to adopt a statewide building code or dictate to municipalities or other forms of local government what building code to use. Currently, the State of Illinois does not have a statewide building code and the OSFM has no intention of touching that subject in this rule proposal. The building code published by the National Fire Protection Association (NFPA 5000) is listed within the OSFM's proposed rules only as one of several viable alternatives for a jurisdiction to prove equivalent fire safety with the fire safety codes adopted by the OSFM. Because it is being addressed in the rules as one of the possible "equivalent codes" to those being adopted by the OSFM, it must be listed under the "referenced documents" section within the proposed rules. This listing of the NFPA 5000 as a referenced document has caused many, including the IML, to believe that the proposed change to our administrative rule is an attempt to adopt NFPA 5000 as a mandatory building code for the State of Illinois. This is not true.

### **Updating The State's Fire Safety Code**

The OSFM currently enforces the 2000 edition of the NFPA Life Safety Code and by this amendment will be adopting the 2006 edition of the NFPA Life Safety Code and NFPA Uniform Fire Code (collectively referred to hereinafter as the "State Fire Safety Code"). Neither of these codes are a building code but provide a standard for fire safety. The OSFM has enforced various editions of the NFPA Life Safety Code since 1988 and prior to that, enforced the fire safety standards established in 41 Ill. Adm. Code 100 that were commonly referred to as the "Grey Book".

### **Applicability of the Fire Safety Code**

The IML is correct in that the fire safety code adopted by the OSFM would be applicable in all areas of the State where the local authority has not adopted a fire prevention and safety standards equal to or higher than the fire safety standard adopted by the OSFM. IML failed to inform you that based on State statute and current administrative rules, this is the current law in Illinois with or without the proposed rule changes. Section 9 of the Fire Investigation Act [425 ILCS 25/9] charges the OSFM to promulgate and adopt "*such reasonable rules as may be necessary to protect the public from the dangers*" of fire,

and “[s]uch rules shall require the installation, inspection or maintenance of necessary fire extinguishers, fire suppression systems, chemical fire suppression systems and fire alarm and protection devices”. The Act goes on to state that “[a]ll local officers...shall enforce such rules, under the direction of the Office of the State Fire Marshal, except in those localities which have adopted fire prevention and safety standards equal to or higher than such rules adopted by the Office of the State Fire Marshal.” By virtue of the language of the Fire Investigation Act, this makes the fire safety code adopted by the OSFM the minimum level of protection that must be provided in the state. The Fire Investigation Act does not allow a community to opt out of this requirement simply by virtue of exercising home rule authority. Nor does it prohibit the local governmental unit from enforcing a fire safety standard that is more stringent than the fire safety standard adopted by the OSFM. Local units of government should already be enforcing a fire safety standard that is at least as stringent as those adopted by the OSFM.

### **Codes That Provide Equivalent Fire Safety**

Previous administrative rules failed to identify other codes that provide “equivalent” fire safety as the State Fire Code. To address this situation and eliminate any confusion, the rules identify the various “building codes” and other fire safety codes that when adopted by a local unit of government, provides “equivalent fire safety.” Instead of enforcing the fire safety standard we adopt, a local governmental may adopt and enforce one of the following national standards to be compliant with our rules:

- NFPA Building Construction and Safety Code (2003 or 2006) and Uniform Fire Code (2003 or 2006);
- ICC International Building Code and International Fire Code (2000, 2003 or 2006); or
- NFPA Life Safety Code (2000 or 2003). (Note: the OSFM did not list these earlier editions of the Life Safety Code in our original rulemaking, but intend to add these editions of the LSC to the list of acceptable codes in the rules);

In lieu of adopting any of the preceding codes, any local authority that believes its current adopted and enforced codes provide equivalent fire safety as the Fire Safety Code, may provide a written statement to the OSFM from an independent Illinois registered professional engineer with fire protection experience that their adopted local code provides an equivalent degree of fire safety. This will also satisfy the rule.

### **Existing Occupancies and Buildings**

With respect to the IML’s statement that “*all existing local government and commercial buildings as well as those residential buildings that house more than two units would be mandated to install fire sprinkler systems. This mandate is not restricted to new construction*”. This statement is completely without substantiation. The Life Safety Code does not require “all existing” buildings to be protected by a fire sprinkler system, but it does require sprinkler protection in some “existing” occupancies and we do not want to represent anything different. However, this is nothing new as this has been the law since 1988 when the Life Safety Code was first adopted. Those occupancies that may be impacted are:

- 1) residential board and care homes with clients whose evacuation rating is what the code deems “impractical to evaluate” (and thus the code prescribes a “defend in place strategy” for these occupancies similar to a hospital or nursing home occupancy);
- 2) high rise hotel and dormitory occupancies;
- 3) mercantile occupancies of a particular size (> 15,000 sq. ft. on any one story, or greater than 30,000 sq. ft. in aggregate, or > 2,500 sq. ft. below the level of exit discharge);
- 4) detention occupancies of certain construction classifications;
- 5) health care occupancies of certain construction classifications; and

- 6) non-public school areas where students occupy levels below the level of egress (the OSFM does not have authority to enforce the Life Safety Code in public school buildings. Public schools fall completely under the jurisdiction and codes of the Illinois State Board of Education).

As stated above, previous administrative rules failed to identify other codes that provide “equivalent” fire safety for “existing” occupancies and buildings as does the State Fire Safety Code. Again, the updated rules identify the various “building codes” and other fire safety codes that have been adopted in the past by local authorities that the OSFM believes provide “equivalent fire safety.” Any occupancy or building constructed and maintained in accordance with one of the following national standards will be considered compliant with our rules:

- NFPA Building Construction and Safety Code (2003 or 2006) and Uniform Fire Code (2003 or 2006);
- ICC International Building Code and International Fire Code (2000, 2003 or 2006);
- BOCA National Building Code and Fire Prevention Code (1990, 1993, 1996 or 1999); or
- NFPA Life Safety Code (1985 and newer); (Note: the OSFM did not list these earlier editions of the Life Safety Code in our original rulemaking, but intend to add these editions of the LSC to the list of acceptable codes in the rules).

In lieu of the preceding codes, the local authority that believes its local code adopted at the time the building or occupancy was constructed provides an equivalent degree of fire safety as is provided in the Life Safety Code and Uniform Fire Code, may provide a written statement to the OSFM from an independent Illinois registered professional engineer with fire protection experience that their adopted local code provides an equivalent degree of fire safety. This will satisfy the rule.

### **Existing Local Governmental Buildings**

IML states that “[a]ll existing local government buildings would be *MANDATED* to install required fire alarm systems, refurbish certain areas with required fire resistant construction, possess stand-by power where required, provide a specific number of exits, limit the occupancy load of a building, provide exit marking signs and emergency lighting, eliminate dead end corridors and travel distance to exists, document testing and proper operation of fire suppression and detection systems and enact fire evacuation drills and employee training. These mandates are *not* restricted to new construction.” IML failed to correctly state the matter that “Some existing local governmental building may be required under the State Fire Code to install....” We are concerned that there would be objections to providing a safe place of employment for those citizens that work for or visit local governmental buildings. Furthermore, the IML statement again fails to recognize that the provision of the vast majority of these items is currently required to be provided in all occupancies as the result of the OSFM’s current adoption of the 2000 Life Safety Code and earlier editions of the Life Safety Code. To represent these requirements as being newly imposed as the result of the proposed updating of the Part 100 rules is inaccurate. As stated previously, it is true that some (not all) existing occupancies may need to install fire alarms, exit signs, emergency lighting, add additional exits, etc. However, as identified in the preceding section, any governmental occupancy or building constructed and maintained in accordance with the identified national standards or confirmed by a professional engineer as “equivalently” safe, is compliant with our rules.

### **Compliance Period for Existing Occupancy/Building**

The OSFM understands that some existing buildings will need time to comply with the requirements of the “existing occupancy chapters” of the Life Safety Code. Even though the Life Safety Code has been

adopted as the statewide code since 1988, the OSFM believed it unreasonable to not acknowledge the fact that many communities have not been enforcing a code equal to the Life Safety Code and therefore it would be overly punitive and unrealistic to expect existing features to be brought up to code compliance “overnight”. Therefore the OSFM is allowing a period of time (years in some cases) for existing buildings to come into compliance with certain critical Life Safety Code requirements and to permit the local authorities the authority to grant extensions.

### **Notification to OSFM**

The OSFM is requesting those local authorities that have a program to enforce a fire prevention and safety standard in accordance with the Rules to notify OSFM in writing each January and identify the standard adopted and enforced. Those local governmental authorities are required to maintain for at least 3 years copies of all inspection reports, permit applications and permits issued in relation to fire prevention and life safety enforcement. The Witt Investigation into the Cook County Administration Building fire identified that many local governmental units in Illinois were not enforcing a code equally stringent to that adopted by the OSFM (as required by State statute). Furthermore, the investigation identified that the OSFM did not have mechanisms in place to track whether local units of government were both aware of, and complying with this requirement. This is the reasoning behind including this requirement in the updated rules. Under the updated rules, the OSFM is essentially going to leave all fire code enforcement issues (other than state-owned or state-licensed facilities) to local units of government that verify the adoption and enforcement of a code that is equal to the minimum requirements set by the OSFM. There needs to be some form of recordkeeping by the OSFM to verify in which communities this is true. Also, identifying which communities have gone “on the record” as providing equivalent codes will allow the OSFM to more easily point daily inquiries (e.g., from architects, engineers, fire system contractors, building owners, etc.) to the local for code advisement and procedures rather than to the OSFM.

### **Exceptions**

Regardless of the requirements of the locally adopted code:

- All new dance halls, discotheques, nightclubs, assembly occupancies with festival seating or any bar with live entertainment must have an automatic sprinkler system installed throughout the occupancy;
- All existing dance halls, discotheques, nightclubs, assembly occupancies with festival seating or any bar with live entertainment that has an occupant load of greater than 100 persons must have an automatic sprinkler system installed throughout the occupancy in accordance with Section 13.3.5.1 of the Life Safety Code;
- Every door in a stair enclosure of an existing occupancy serving more than 4 stories shall allow for re-entry from the stair enclosure to the interior of the building in the event of a fire in accordance with Section 7.2.1.5.7 of the Life Safety Code. The exemption to this requirement permitted in Section 7.2.1.5.7.2 (2) is not allowed.

The OSFM included these requirements in the proposed rule as the direct result of fatal fire incidents. The provision of automatic fire sprinklers in specific types of assembly occupancies addressed in the first two bullet points results directly from the Station Nightclub fire in Rhode Island that killed 100 occupants. The stairwell door unlocking requirement addressed in the third bullet point results directly from the fire at the Cook County Administration Building in Chicago where occupants were trapped, and six lost their lives, in a smoke-filled stairway of the building. The OSFM believes that regardless of the presence of an overall equivalent code being adopted by a local unit of government, these specific requirements must be met.

## **Residential Sprinkler Systems**

The 2006 Life Safety Code does in-fact require sprinkler systems to be installed in new single family homes. However, the OSFM recognized that this requirement presented a problem and therefore made the chapter of the Life Safety Code applicable to Single and Two-Family Dwellings a “recommendation” and not a mandatory code “requirement”. What was written into the rule change proposal was a requirement that builders offer the option of automatic sprinkler protection to any purchaser of a building (including single family homes). However, to be clear, the rules would not mandate sprinkler protection in single or two-family homes (either new or existing) and in model or spec homes already constructed.

## **Conclusion**

Again, the OSFM is NOT attempting to adopt a statewide building code or dictate to municipalities or other forms of local government what building code to use. The OSFM is only attempting to demystify our administrative rules and clear up the confusion that has surrounded them for years. In addition to making it clear to the local authorities what their obligation is and has been for the past 20 years.

The OSFM welcomes the submittal of written comments relative to these rules. Written comments should be directed to:

Misty Matykiewicz, Division Manager  
Division of Fire Prevention  
Office of the State Fire Marshal  
1035 Stevenson Drive  
Springfield, IL 62703-4259