

**SARAH PALIN**  
GOVERNOR  
GOVERNOR@GOV.STATE.AK.US



P.O. Box 110001  
JUNEAU, ALASKA 99811-0001  
(907) 465-3500  
FAX (907) 465-3532  
WWW.GOV.STATE.AK.US

**STATE OF ALASKA**  
**OFFICE OF THE GOVERNOR**  
**JUNEAU**

May 14, 2009

The Honorable Steven Chu  
Secretary  
United States Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585

Dear Mr. Secretary:

On behalf of Governor Sarah Palin, I am requesting confirmation that the U.S. Department of Energy (USDOE) has changed its previous guidance to states regarding the assurances required for acceptance of state energy program funds (SEP). The USDOE guidance issued on March 12, 2009, stated that in order for a state to receive SEP funds each governor must certify in writing that either the State or all "the applicable units of local government that have authority to adopt building codes" would "implement" the 2009 International Energy Conservation Code for new residential construction or renovations, the ANSI Standard 90.1-2007 commercial building energy code, and would adopt and pay for a plan to achieve a 90 percent compliance with the above energy codes within eight years, including an "active" enforcement program. Enclosed with this letter you will find, Attachment 3 to DOE Official Guidance for State Energy Program Formula Grants, issued March 12, 2009.

It appears that the USDOE's March 12 guidance tracked with the language of Section 410 of the economic stimulus bill exactly. Please see, Section 410(a)(2), enclosed with this letter. Alaska was recently informed, through email communication, that the USDOE approved the State of Missouri's application for funds based on a much broader interpretation of the statute. Missouri's letter states "The State is committed to working with communities to create model energy efficiency standards that, if local units of government choose to implement, should reduce energy costs for Missourians."

While Governor Palin supports the concept of conserving energy and renewable energy, the Governor was not prepared to sign the USDOE's required certification because of the federal mandate for statewide building energy codes for residential and commercial buildings. The Legislature did not pass a statewide energy code and Governor Palin has not asked for, nor received, assurances from every jurisdiction with

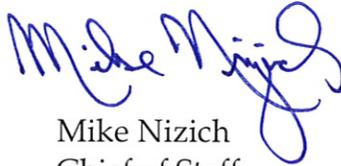
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authority over the subject of building codes that they would adopt and enforce the 2009 International Energy Code and ASHRAE 90.1-2007. The Governor is concerned by the loss of local control to tailor energy codes to the very different climate regions of the state, and the cost of meeting the requirements.

Please confirm in writing that the USDOE has reversed its previous narrow interpretation of the language of Section 410 in the economic stimulus bill and will now accept a broader certification statement that Governor Palin has encouraged communities to discuss and decide whether to adopt an energy code and enforcement program.

Thank you for considering this request for clarification.

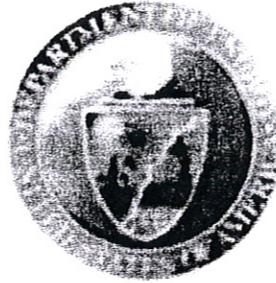
Sincerely,



Mike Nizich  
Chief of Staff

Enclosures

**FINANCIAL ASSISTANCE  
FUNDING OPPORTUNITY ANNOUNCEMENT**



**U. S. Department of Energy**

**National Energy Technology Laboratory**

**State Energy Program Formula Grants  
American Recovery and Reinvestment Act (ARRA)**

**Funding Opportunity Number: DE-FOA-0000052**

**Announcement Type: Initial**

**CFDA Number: 81.041, State Energy Program**

<b>Issue Date:</b>	<b>03/12/2009</b>
<b>Initial Application Due Date:</b>	<b>03/23/2009 at 8:00:00 PM Eastern Time</b>
<b>Comprehensive Application Due Date:</b>	<b>05/12/2009 at 8:00:00 PM Eastern Time</b>

### ATTACHMENT 3 -- GOVERNOR'S ASSURANCE CERTIFICATION

By signing below, the State Governor is providing their written certification that they will comply with and obtain the following assurances in accordance with Section 410 of the Recovery Act.

(1) The applicable State regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, under its rate-making authority a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers' incentives to use energy more efficiently.

(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.

(C) A plan to achieve 90 percent compliance with the above energy codes within eight years. This plan will include active training and enforcement programs and annual measurement of the rate of compliance.

(3) The State will to the extent practicable prioritize the grants toward funding energy efficiency and renewable energy programs, including—

(A) the expansion of existing energy efficiency programs approved by the State or the appropriate regulatory authority, including energy efficiency retrofits of buildings and industrial facilities, that are funded by the State or through rates under the oversight of the applicable regulatory authority, to the extent applicable;

(B) the expansion of existing programs, approved by the State or the appropriate regulatory authority, to support renewable energy projects and deployment activities, including programs operated by entities which have the authority and capability to manage and distribute grants, loans, performance incentives, and other forms of financial assistance; and

(C) cooperation and joint activities between States to advance more efficient and effective use of this funding to support the priorities described in this section.

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State Governor Signature

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Date

## Section 410 [Economic Stimulus Bill]

[T]he Secretary shall make grants ... only if the governor of the recipient State notifies the Secretary of Energy in writing that the governor has obtained necessary assurances that each of the following will occur: ...

(2) The State, or the applicable units of local government that have authority to adopt building codes, will implement the following:

(A) A building energy code for residential buildings that meets or exceeds the most recently published International Energy Conservation code, or achieves equivalent or greater energy savings.

(B) A building energy code for commercial buildings throughout the State that meets or exceeds the ANSI/ASHRAE/IESNA Standard 90.1-2007, or achieves equivalent or greater energy savings.

(C) A plan for the jurisdiction achieving compliance with the building energy code or codes described in subparagraphs (A) and (B) within 8 years of the date of enactment of this Act in at least 90 percent of new and renovated residential and commercial building space. Such plan shall include active training and enforcement programs and measurement of the rate of compliance each year.

\* The most recently published International Energy Conservation Code is the 2009 International Energy Conservation Code.