

MEMORANDUM

TO: County Council

FROM: Amanda Mihill, Legislative Analyst *A. Mihill*
Michael Faden, Senior Legislative Attorney

SUBJECT: **Action:** Expedited Bill 44-09, Buildings – Energy Efficiency – Deferral

Expedited Bill 44-09, Buildings – Energy Efficiency – Deferral, sponsored by the Council President at the request of the County Executive, was introduced on November 17, 2009. A public hearing was held on November 24.

Expedited Bill 44-09 would defer the effective date for requiring certain residential buildings to meet ENERGY STAR standards from January 1 to April 1, 2010.

Background

The Council enacted Bill 30-07, Buildings – Energy Efficiency on April 22, 2008. Bill 30-07 required certain covered buildings to meet the ENERGY STAR standard by January 1, 2010. Bill 30-07 defined “covered building” as a newly constructed single family residential building or a multi-family residential building that is not covered by the County Green Buildings Law or is not eligible to earn an ENERGY STAR rating.

Bill 30-07 contained an uncodified provision which would delay the ENERGY STAR standard’s effective date from January 1 to April 1, 2010, if:

- the Director of the Department of Environmental Protection certifies by October 1, 2009 that an alternative approach would achieve the same energy efficiency goals and be less costly to builders and buyers of covered buildings, or
- the Sustainability Working Group finds that there is an insufficient number of qualified home energy performance raters doing business in the County.

According to the Executive’s transmittal memo, DEP analyzed several alternative standards to the ENERGY STAR requirement and concluded that the 2009 International Energy Conservation Code, with the addition of a blower door test to verify compliance, would achieve the same energy goals as Bill 30-07. DEP concluded that the cost of complying with the IECC

2009 Code would be comparable, but could not conclude with certainty that IECC 2009 would cost less than the ENERGY STAR standard.

The State has mandated that local jurisdictions adopt IECC 2009 by April 1. The Executive expects to submit regulations to implement IECC 2009 to the Council in early 2010; they are expected to be published in the December issue of the *County Register*. With this background, the Executive recommended that the Council delay the effective date of the ENERGY STAR standard to April 1.

Hearing testimony At the public hearing held on November 24, Stan Edwards of DEP, representing the County Executive, (©6), and Randy Melvin, representing the Maryland-National Capital Building Industry Association (BIA), supported enactment of Bill 44-09. Mr. Edwards stressed that the process outlined above would let the Council, in reviewing the Executive's building code regulations, make the ultimate decision before April 1 on which energy standards will apply.

Council staff recommendation: enact Expedited Bill 44-09.

| <u>This packet contains</u> | <u>Circle</u> |
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Expedited Bill No. 44-09
Concerning: Buildings – Energy
Efficiency – Deferral
Revised: 11/13/2009 Draft No. 1
Introduced: November 17, 2009
Expires: May 17, 2011
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the County Executive

AN EXPEDITED ACT to:

- (1) defer the effective date for requiring that certain residential buildings meet certain ENERGY STAR standards; and
- (2) generally amend the law relating to buildings, energy, and environmental policy.

By amending

2008 Laws of Montgomery County
Chapter 7

| | |
|------------------------------|--|
| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing law by original bill.</i> |
| [Single boldface brackets] | <i>Deleted from existing law by original bill.</i> |
| <u>Double underlining</u> | <i>Added by amendment.</i> |
| [[Double boldface brackets]] | <i>Deleted from existing law or the bill by amendment.</i> |
| * * * | <i>Existing law unaffected by bill.</i> |

The County Council for Montgomery County, Maryland approves the following Act:

LEGISLATIVE REQUEST REPORT

Expedited Bill 44-09

Buildings – Energy Efficiency – Deferral

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|---|---|
| DESCRIPTION: | Amends the effective date for requiring that certain residential buildings meet certain ENERGY STAR standards |
| PROBLEM: | Bill 30-07 requires that all single family homes and multi-family buildings that are three stories or less for which a building permit application is filed beginning on January 1, 2010 meet the ENERGY STAR standard for energy conservation. The law also provides for suspension of those requirements until April 1, 2010 if the Director of Environmental Protection identifies alternative approaches that are similarly effective and less costly than complying with the ENERGY STAR mandates. The Director of Environmental Protection has identified the 2009 International Energy Construction Code (IECC) as an alternative that is comparable to ENERGY STAR both in terms of effectiveness and compliance costs. Local jurisdictions are required to adopt the 2009 IECC by April 1, 2010. Given the comparability between the two energy conservation standards, a postponement of the effectiveness date for the ENERGY STAR mandates under Bill 30-07 until the date by which the County must adopt the 2009 IECC will provide an opportunity for the Council to consider the comparative effectiveness of the two standards before making a final decision concerning which standard is more appropriate for new residences within the County. |
| GOALS AND OBJECTIVES: | To modify the applicability of Bill 30-07, Buildings – Energy Efficiency (which the Council passed on April 22, 2008) to make it applicable to covered buildings for which a building permit application is filed on or after April 1, 2010. |
| COORDINATION: | Department of Permitting Services, Department of Environmental Protection |
| FISCAL IMPACT: | To be requested. |
| ECONOMIC IMPACT: | To be requested. |
| EVALUATION: | To be requested. |
| EXPERIENCE ELSEWHERE: | To be determined. |
| SOURCE OF INFORMATION: | Hadi Mansouri, Department of Permitting Services, 240-777-6233; Stan Edwards, Dept. of Environmental Protection, 240-777-7748 |
| APPLICATION WITHIN MUNICIPALITIES: | To be determined. |
| PENALTIES: | Class A |

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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

November 12, 2009

RECEIVED
MONTGOMERY COUNTY
COUNCIL
2009 NOV 13 AM 11:36

TO: Phil Andrews, Council President

FROM: Isiah Leggett, County Executive

SUBJECT: Proposed Legislation

I am forwarding for your consideration an expedited bill that would modify the applicability of Bill 30-07, Buildings – Energy Efficiency (which the Council passed on April 22, 2008) to make it applicable to covered buildings for which a building permit application is filed on or after April 1, 2010. I am also forwarding a Legislative Request Report for this bill.

Bill 30-07 requires the following “covered buildings” to meet the Energy Star standard for energy efficiency: (1) all single family homes; and (2) multi-family buildings that are eligible for the Energy Star rating and not covered by the County’s Green Buildings Law (i.e., buildings that are three stories or less). Under Bill 30-07, the Energy Star standard is applicable to covered buildings for which a building permit application is filed on or after January 1, 2010.

Bill 30-07 included language that authorized the Department of Environmental Protection (DEP) to “suspend” the applicability of the Energy Star standard until April 1, 2010 if DEP found an alternative standard that: (1) achieved the same energy efficiency goals; and (2) was less costly to builders and buyers of covered buildings.

After enactment of Bill 30-07, DEP conducted a comprehensive analysis of the following alternative standards: (1) the 2009 International Energy Conservation Code (IECC 2009); (2) the National Association of Home Builder’s National Green Building Standard; and (3) the Department of Energy’s Builder Challenge. DEP concluded that IECC 2009, with a local modification that would require a blower door test as a method of verifying compliance, would achieve the same energy goals as the Energy Star standard. DEP also concluded that the cost of complying with this alternative standard would be *comparable to* the cost of complying with Energy Star. However, based on available data, DEP could not conclude with certainty that the cost of complying with this alternative standard would be *less than* the cost of complying with Energy Star.

Phil Andrews
November 12, 2009
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The State recently adopted IECC 2009 as the State energy code standard (effective October 1, 2009) and mandated that all local jurisdictions adopt the IECC 2009 by April 1, 2010. The Department of Permitting Services (DPS) has drafted proposed regulations that would amend the County's building code to adopt IECC 2009. The proposed regulations will be published in the December 2009 County Register and submitted to Council in early 2010.

In light of the comparability of the IECC 2009 and Energy Star standards, I recommend that the Council make a final decision regarding the appropriate energy conservation standard for covered buildings under Bill 30-07 at the same time that it considers the proposed regulations to adopt the IECC 2009 for other types of new buildings. This would allow the Council to obtain a full understanding of how the IECC 2009 relates to the Energy Star standard before making a final decision regarding the appropriate standard for single family homes and multi-family buildings that are three stories or less.

I look forward to working with the Council as it considers this bill.

Attachments (2)

cc: Kathleen Boucher, Assistant Chief Administrative Officer
Robert Hoyt, Director, Department of Environmental Protection
Carla Reid, Director, Department of Permitting Services
Leon Rodriguez, County Attorney

**Testimony of Stan Edwards, Chief
Division of Environmental Policy & Compliance
Department of Environmental Protection
on behalf of County Executive Isiah Leggett
Regarding Expedited Bill 44-09 – Buildings – Energy Efficiency – Deferral**

November 24, 2009

Good afternoon. My name is Stan Edwards. I am the Chief of the Division of Environmental Policy & Compliance in the Department of Environmental Protection. Thank you for the opportunity to testify on behalf of the County Executive on Expedited Bill 44-09 to defer implementation of the requirement that certain new homes meet ENERGY STAR guidelines.

As you are aware, Bill 30-07 required certain residential buildings for which a building permit application would be filed on or after January 1, 2010 to meet ENERGY STAR guidelines. The bill also asked DEP to determine if there existed an alternative standard that: (1) achieved the same energy efficiency goals; and (2) was less costly to builders and buyers of covered buildings.

After enactment of Bill 30-07, DEP conducted a comprehensive analysis of the following alternative standards: (1) the 2009 International Energy Conservation Code (IECC 2009); (2) the National Association of Home Builder’s National Green Building Standard; and (3) the Department of Energy’s Builder Challenge. DEP concluded that IECC 2009, with a local modification that would require a blower door test as a method of verifying compliance, would achieve the same energy goals as ENERGY STAR. DEP also concluded that the cost of complying with this alternative standard would be *comparable to* the cost of complying with ENERGY STAR. However, based on available data, DEP could not conclude with certainty that the cost of complying with this alternative standard would be *less than* the cost of complying with ENERGY STAR.

The State recently adopted IECC 2009 as the State energy code (effective October 1, 2009) and mandated that all local jurisdictions adopt IECC 2009 by April 1, 2010. The

Department of Permitting Services has drafted proposed regulations that would amend the County's building code to adopt IECC 2009. The proposed regulations will be published in the December 2009 County Register and submitted to Council in early 2010.

In light of the comparability of IECC 2009 and ENERGY STAR guidelines, the County Executive recommends that the Council make a final decision regarding the appropriate energy conservation standard for covered buildings under Bill 30-07 at the same time that it considers the proposed regulations to adopt IECC 2009 for other types of new buildings. This would allow the Council to obtain a full understanding of how IECC 2009 relates to ENERGY STAR before making a final decision regarding the appropriate standard for applicable residential homes.

I would be happy to address any questions the Council may have.