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Sent Via Email

CBSC@dgs.ca.gov

California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833
Attention: Dave Walls, Executive Director

Dear Director Walls:

Thank you for the opportunity to comment on proposed building standards of the Office of the State Fire Marshal.

My comments are directed to California Building Code Section 1011.6 and 1011.7 and the omission of Group E Occupancies.

Let me begin by giving you my background first. I retired from the Office of the California State Fire Marshal in 1993 where I was the Regulations Coordinator and a member of the CBSC Coordinating Council. One of my responsibilities was to adopt regulations to implement the legislative provisions of Health & Safety Code Section 13143.

I am a current member of the following national committees:

Standards Technical Panel (STP) member of UL 924 Emergency Lighting and Power Equipment & UL 1994 Luminous Egress Path Marking Systems

ASTM E12.13 on Photoluminescent Safety Markings

ASTM E15.47 on Fire Ladders

ASTM E34.40 on Hazard Communications

Chair of the Code Development/Interpretation Committee for the National Code Services Association, a Section of the Western Fire Chiefs Association.

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As you see by the notes to both sections, these regulations are driven by statutory law, Health & Safety Code Section 13143 which states the following in paragraph three:

"In addition to any other requirements for location of exit signs or devices in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, **school, or any similar occupancy of any capacity**, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education, **the State Fire Marshal shall adopt building standards pursuant to this section establishing minimum requirements for the placement of distinctive devices, signs, or other means that identify exits and can be felt or seen near the floor. Exit sign technologies permitted by the model building code upon which the California Building Standards Code is based, shall be permitted. These building standards shall be adopted before July 1, 1998, and shall apply to all newly constructed buildings or structures subject to this subdivision for which a building permit is issued, or construction commenced, if no building permit is issued, on or after January 1, 1989."**

The regulations originally adopted by the State Fire Marshal in the early 1990's included Group E Occupancies as required by Health & Safety Code Section 13143. I was involved in the adoption of those regulations as the Regulations Coordinator for the Office of the State Fire Marshal. Subsequent editions of the California Building Code (1989 Supplement, 1991 CBC, 1995 CBC, 1998 CBC, 2001 CBC) also included Group E Occupancies as required by Health & Safety Code Section 13143.

It is not clear if the omission of Group E Occupancies in the 2007 California Building Code occurred as the result of a rulemaking proposal or whether the omission was the result of a publishing or other editorial error.

Nevertheless, the Commission and the Office of the State Fire Marshal now have the opportunity to correct this omission.

The issue of what occupancies are required to have distinctive devices, signs, or other means that identify exits and can be felt or seen near the floor is clearly specified in Health & Safety Code Section 13143 and specifically includes **"...school, or any similar occupancy of any capacity,..."**.

Any deletions to the occupancies named in this statute can only be done by the legislature by amending the statute. The statute only empowers the State Fire Marshal to establish minimum requirements for the placement of distinctive devices, signs, or other means that identify exits and can be felt or seen near the floor in the occupancies specified by the legislature.

I do not believe that the State Fire Marshal intentionally omitted Group E Occupancies and that this is most likely an editorial or publishing error.

Health & Safety Code Section 18930(a) requires that building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency or state agency that proposes the building standards which shall, to the satisfaction of the commission, justify the approval thereof in terms of specific criteria.

Criteria (1) requires that the proposed building standard do not conflict with other building standards. Building standards are also contained in statute and the omission of Group E Occupancies from CBC 1011.6 and 1011.7 is in conflict with enabling statute Health and Safety Code Section 13143.

Criteria (2) also requires that the proposed building standard is within the parameters established by enabling legislation. Health & Safety Code Section 13143 specifically specifies "...school, or any similar occupancy of any capacity,...". Any deletions to the occupancies named in this statute can only be done by the legislature by amending the statute.

Criteria (4) requires that the proposed building standard is not unreasonable in whole or in part. The omission of a statutorily required occupancy, whether intentional or unintentional, constitutes an unreasonable and unlawful omission.

While the law is clear that Group E Occupancies are required to have these devices, architects and local AHJ's will not look in the California statutes to know what occupancies must have floor level exit signs and path markings.

One must also consider the legal liability of providing misinformation to architects and AHJ's who want to comply with state laws and regulations but may be hampered by a building regulation that is in conflict with the enabling legislation by virtue of an omission in the regulation.

Sincerely,



Manny Muniz
California Deputy State Fire Marshal (Ret.)