

REFORMING BUILDING FIRE SAFETY REGULATION- PART 2

By Richard Schulte

“Resolved, That each standing committee designated in section 3 of this resolution shall inventory and review existing, pending, and proposed regulations, orders, and other administrative actions or procedures by agencies of the Federal Government within such committee’s jurisdiction. . .

In completing the review and inventory described in the first section of this resolution, each committee shall identify regulations, executive and agency orders, and other administrative actions or procedures that—

- (1) impede private-sector job creation;
- (2) discourage innovation and entrepreneurial activity;. . .
- (6) fail to utilize or apply accurate cost-benefit analyses; . . .”

H. Res. 72, U. S. House of Representatives, February 11, 2011

On January 18, 2011, President Obama issued an Executive Order addressing the need for regulatory reform within the Federal Government. The President’s Executive Order made reference to a previous Executive Order issued by President Clinton, Executive Order 12866, dated September 30, 1993. House Resolution 72, dated February 11, 2011, follows-up on Presidents Obama’s and Clinton’s Executive Orders.

Of particular importance with respect to building safety regulation is the issue of cost/benefit of the provisions included in building and fire codes. All too often the issue of cost/benefit has been “side-lined” and replaced by emotional response when discussing code change proposals in recent years.

Certainly, the implementation of the recommendations for making buildings “safer” included in the report on the National Institute of Standards and Technology (NIST) investigation into the collapse of the World Trade Center (WTC) towers and the WTC 7 Building is a prime example of the need for building safety regulation reform. NIST candidly admitted back in 2005 that no cost/benefit analysis was conducted by NIST prior to making the recommendations included in their investigation report. Further, the lead investigator for NIST, Dr. Shyam Sunder, stated that it was the responsibility of organizations considering the implementation of NIST’s recommendations to do a cost/benefit analysis.

When specific proposals to implement the NIST recommendations were developed for inclusion in the International Building Code (IBC), no cost/benefit analysis was ever developed for any of these proposals. The arguments in support of the proposals to amend the IBC were, in essence, limited to the fact that the proposals was simply intended to implement the NIST recommendations. (If NIST recommends that this is what we should do, who are we to question NIST?)

It would seem that the process used to develop the recommendations included in the NIST World Trade Center investigations and to implement NIST's recommendations violated both the spirit and intent of President Clinton's 1993 Executive Order.

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It would also seem reasonable, even at this late date where implementation of the NIST recommendations is a *fait accompli*, that NIST develop a cost/benefit analysis for each of its WTC recommendations and that proposals to amend the International Building Code based upon NIST's recommendations be reconsidered after the cost/benefits analyses are completed.

Requiring NIST to perform a rigorous cost/benefit analysis on its WTC recommendations would force the government agency to plainly spell out the benefits to be achieved by the implementation of the recommendations, as well as the risks to the safety of the American public. The NIST investigation reports made no pretense of providing a discussion of either the risks being addressed, or the benefits which would accrue upon implementation. NIST's justification for their recommendations was pretty much a "smoke and mirrors" argument.

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It seems obvious to most in the private sector that, once the benefits and risks are clearly explained, the implementation of the NIST recommendations will fail the "cost/benefit" test established by President Clinton, and so recently reiterated by both President Obama and the United States House of Representatives.

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The NIST recommendations included in its WTC investigation reports simply cannot withstand the “sunlight” which would be shed on these recommendations if a rigorous “cost/benefit” test were applied as required by the Executive Orders of two presidents and, now, by a resolution of the House of Representatives.

Editor’s Note: House Resolution 72 has yet to be voted on by the United States Senate.

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Editor’s Note: Richard Schulte is a 1976 graduate of the fire protection and safety engineering program at the Illinois Institute of Technology (IIT) in Chicago. Schulte worked as the fire protection engineer for the San Jose (California) Fire Department from 1980-1982. Schulte was named as one of ENR’s “Top 25 Newsmakers of 2004” by Engineering News-Record for his work on critiquing the National Institute of Standards and Technology (NIST) investigation into the collapse of the World Trade Center towers on 9/11.