



STATE OF WASHINGTON

## STATE BUILDING CODE COUNCIL

Department of General Administration

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### MINUTES CARBON MONOXIDE ALARM TAG MARCH 15, 2011

**Date:** March 15, 2011  
**Location:** DDES Hearing Room  
1000 Oakesdale Ave, SW #140  
Renton, Washington

**TAG members present (\*phoned-in):**

- Dave Kokot, Chair;
- Gary Allsup; Nancy Bernard; Jackie Clower\*; Neil Hampson, M.D.\*; Julie Johnson; Tracey Locke; Barbara Moilien; Mark Murray; Mark Ossewarde; Julie Peterson; Joe Puckett\*; Rodney Schauf; Jim Williams (voting members).
- Megan Schrader; Katie Wheeler\*; Michael Otto\*; Bob Mitchell(non-voting members).

**Also present:**

- Joe André; Mike Tornquist\*

**Absent:**

- Cal Clausen; Heidi Scarpelli; Lindell Weaver, M.D.; Anne Donegan (alternate); Ann Fitzsimmons; Allen Spaulding (alternate)

**Staff present:**

- Peggy Bryden; Joanne McCaughan; Tim Nogler

**Introductions:**

TAG Chair Dave Kokot welcomed the group. Introductions were made and included those participating by phone.

**Review and Approve Agenda:**

The agenda was approved with modifications being made to the amount of time assigned to each subject.

**Review and Approval Minutes**

The minutes of March 1 were reviewed and were approved with some modifications to the draft.

**Data Review/Presentations**

Dr. Hampson gave a presentation on CO poisonings. He started by saying as a physician he knows little about legislation but wanted to be sure the facts of CO poisoning were given. He has cared for over 100 people with CO poisoning; some had died and many have been left with permanent neurologic impairments. During the power outage in 2006 there were eight people that died needlessly; approximately 350 people had been seen for signs of CO poisoning. One hundred percent of the cases resulted from barbecues or other fuel burning items brought into the dwellings. Of the 93 hyperbaric cases, only one was a result of a fuel burning appliance in the dwelling and

seven resulted from attached garages; the remaining 85 cases of CO poisoning were due to items brought in by residents. Dr. Hampson noted that this is why the legislation was passed, to make sure this never happens again; it would be irresponsible to cover only residences where fuel burning appliances or attached garages are present. He proposes there should be no exemptions, and that a simple solution that is straight forward is best. Having exceptions creates confusion, and combination smoke/CO alarms are preferable and could be done on a replacement schedule; this would spread the cost out over a period of time. Dr. Hampson noted that some are trying to protect their own interests with this issue; he has personally witnessed someone bring a barbeque into a hotel room (to prevent it from being stolen).

At the conclusion of his report, Dave asked the TAG for comments or questions. Nancy Bernard said that DOH had exactly the same thoughts about how this legislation should be written. She explained that she had also met with other DOH staff from Construction Review Services, and after careful consideration of the facts they all came to the same conclusion as Dr. Hampson. She concluded that DOH supports the idea of treating all the residences the same regardless of whether fuel-fired appliances are present or not.

Barb Moilien thanked Dr. Hampson for his comments. She felt the group could meet indefinitely and not come to a consensus, but the object was to come up with a recommendation for the Council. She concluded that it is the Council's role to protect the public. Joe Andre noted there was a recent incident with several neighbors affected by CO poisoning due to a barbeque brought into an apartment complex; Joe Puckett added that this was a suicide attempt and it was fortunate that no-one else was permanently affected.

Dave reviewed the SBCC bylaws regarding consensus and voting procedures.; he noted a quorum is present (nine members). He added the task of the TAG was to determine a recommendation for the Council through either a consensus or a majority vote by the voting members only. The chair is not considered a voting member unless there is a tie. He added that those in the minority position can present a minority report to the Council stating their position and providing an explanation.

Nancy feels normally TAGS work with code, but this is different as we already have legislation on this and the law is driving it. Julie Johnson said that none of the proposals being presented were against the law as it is written. She said the state law lays out the requirements that are to be met and it is a good place to start. Nancy disagreed with this perception. She reiterated where new construction was clearly required by January 2011, for the existing dwellings the intent was January 2013 at the latest. The goal is to prevent a repeat of the 2006 incidents and deaths, and added that the room for exceptions is pretty narrow in the law. The phase in should be reasonable, but it should happen. Julie J. noted she does not disagree but the law does not state that the exemptions should be narrowed. Nancy noted it is possible that the TAG will not come to consensus around certain issues. Tim Nogler noted that while there is some room for exceptions in Section 3 of the legislation, the language in the law is permissive. There is discretionary authority to allow exceptions only where it is determined that the alarms are unnecessary. Julie P. noted it is the intent to limit exceptions, but it seems clear that licensed boarding home would be eligible for exception. Rodney Schauf noted he supports that position.

Mark expressed concern about the 2013 implementation date, as there is no enforcement mechanism. Tracey noted there would be a legal incentive for landlords for non-compliance, as landlords could be sued if there is an incident. Dave reminded the group it is an unfunded mandate for local government and that no additional staff is available for enforcement purposes; the reality is this may not be enforced. We are looking at a situation where all residential settings would be required to comply, with only very few exceptions. The TAG needs to assess where they already have consensus and move forward from there. Clarification on where adult family homes are defined was provided by Tim.

Dave moved the discussion toward the proposals for the residential code. He summarized the situation, noting there is a split in the group in terms of whether the alarms should be provided in all residential settings or only where

there is a fuel-fire appliance or an attached garage present. He noted there has been a great deal of data submitted on both sides of the issue. Julie J. stated there are two places to go: back to the state law, or into the ICC language. She asked whether the Council has the authority to do 'something beyond the law.' It does not make sense to have two categories: new construction and existing dwellings. She added that there is no way to know if a single family home is owner-occupied or is a rental unit. She suggested we should just go to the nationally accepted standards. Rodney noted he had not submitted any proposal for residential and Julie P. clarified that is all we are looking at right now. Tim suggested that each proponent should briefly explain their proposals.

Gary Allsup, City of Lacey: based his proposal on the smoke alarm requirements; enforcement for the new regulations would be a challenge. For the easiest implementation it would be possible to do when a building is altered or a permit is pulled, then the CO alarms would be required to be installed at that time. Any exceptions would be the same as smoke alarms.

Nancy Bernard, Dept. of Health: her proposal would allow for no exemptions or exceptions, and the requirements for CO alarms would follow those for smoke alarms. For new construction they are already required to be in place, and are required in the IRC. For existing occupancies, she agrees enforcement is an issue. Although that is not a DOH responsibility, they would be responsible to help with public education. DOH also wants to see language about the point of sale alarm requirements for existing owner-occupied single family dwellings. Some in the group were concerned about the questions around point of sale. Bob Mitchell of the Washington Realtors noted it was unclear whether they are really exempt; he has been in touch with members and believes it is in their best interest to install the alarms. Joe P. wanted to know if there was any mechanism in place to track this during the sales process. Bob referenced the owner-disclosure form that is required by law; it specifies what is provided by the seller to the buyer. He also noted not every transaction is handled by an agent, it does not happen in every instance. He added it should be part of the seller's disclosure form; some of this is in law, some is in rules. However, even if it were listed as a requirement, if a seller did not provide it, the only recourse is to rescind the transaction up to the point of sale. Dave added that the language from the law could be added to the rule.

Jackie Clower wants to ensure that fireplaces are covered as 'fuel-burning appliances' and she borrowed language from other state laws, including requirements for 'battery back-up' systems.

Dave Kokot, Spokane Fire Department: he noted language on fireplaces is already included in UL 2034 standards. Dave discussed the idea that from the fire standpoint they need detection in all residences, he is willing to add sales language and keep the 2013 date for existing dwellings. He added language to deal with multiple bedrooms and multiple levels.

Tracey L. noted the Seattle Housing Authority has learned a great deal about these issues through being involved in the TAG process. They now recommend no exceptions because they recognize that poisoning can be random. Their main concern is hardship due to cost impact, and they would prefer a much longer timeframe for compliance. They would prefer to do the combination alarms as they perform maintenance on their existing systems, that could take several years; they would be happy to add sales language. Nancy B. noted they had come to the same conclusion at DOH. Joe Andre provided a point of clarification for the group about the dates of 2011 and 2013, noting those are requirements provided in the legislation and noting the Council cannot just decide to go beyond those dates. Tracey L. noted there are more than 9000 units they will need to equip within a two-year period, there are some areas where the risk is greater, others where it is lower. They will need to assess risk and begin to implement, but it will take a great deal of time. Julie J. asked about the presence of single family homes in the SHA, and Tracey noted there are 300 or so, but they may reduce that number; she added that those who own homes need to know they also need protection.

Julie P. noted homes that were occupied prior to June 2009 are not required to install the alarms, but Nancy added that is true only up to the point of sale. Julie P. referred to the language in the legislation; Dave pointed out that the

SHA was proposing they be more restrictive than the law which is permissible. The law is the minimum requirement, but in the case of point of sale when there is a new owner there is a new requirement. Joe P. noted it is up to the SBCC to determine how that occurs, and Tim noted that the point of sale is the trigger for the requirement.

Julie P. stated that during the legislative process stakeholder agreements were reached, and that the SHA proposal currently on the table negates the original agreements and exemptions. Tracey asked if the intent is to prevent poisonings, what is the purpose of exemptions? Katie W. stated that in the NYC regulations they can charge the tenant for the maintenance and installation of the alarms; it was written into their legislation.

Mark Murray, University of Washington: noted in his view it is clear these are needed in all residences. He struck the exceptions and likes Dave K.'s amendments. Mike Otto of WSU wanted to see a minor change in building department enforcement, and wants some kind of trigger to the regulations. He believes the City of Lacey proposal is appropriate, with no exceptions for owner-occupied situations. There is an issue of the longevity of the alarm unit; one co-worker who assumed his family was protected found out otherwise as the unit was too old. It is very hard to get the consumer/resident to change the batteries and replace the unit when it is worn out. The technology is good, getting better, but still not as good as smoke alarms. If they are required in dorms the extra cost would be high, they would be faced with an on-going cost. He wants to see a provision that would allow exceptions so they would be required where fuel-burning appliances are required.

Dr. Hampson, Professor Emeritus, University of Washington: agrees CO alarms are not as durable as smoke alarms, but most of those who are poisoned are affected by charcoal briquettes being used indoors. Mike Otto noted that often these cases happen when people ignore the instructions that are written on the bag, or on the generator they are using during a power outage; some will simply not comply. He added that local jurisdictions can always decide to be more restrictive.

Jackie Clower, CDC noted that if a generator is within 25 feet of a structure, a poisoning incident can occur. Mike O. noted he was unaware of such instances, and noted that cars on the street can also cause a problem, but the building code is written to protect residents from the failure of building systems. It is difficult to enforce the safety requirements where there are no requirements. Barb M. noted that in the case of her daughter's poisoning, it was a combination of a boiler malfunction and an unlicensed contractor who was hired by the landlord and made an improper repair.

Julie Peterson, Aging Services of Washington: noted she would not need to make her proposal as R-2 boarding homes are not covered in the Residential Code.

Julie Johnson, Rental Housing Association: wants to see the alarms required at sale of owner-occupied single family homes or when a permit is pulled. She noted her group does want to protect the public, but they need to also be practical when passing legislation. She approves of the sale timeframe and the enforcement /permit issues. Mark M. noted it is intuitive that this would happen among building officials. Gary Allsup added that 'what is in the book' is what he goes by, referring to the code manuals; Dave noted that interpretation is also used as guideline and allowed for because local governments are the 'authority having jurisdiction' when it comes to code interpretation and enforcement. Julie J. added that those who have a threat of poisoning are the ones who must have them, everyone else can be included at a later date.

Joe Andre, NEMA: does not have any proposal to offer to the TAG, but suggested a combination that would incorporate Dave and Gary's language. He also noted the L&I requirements in the electrical code around the issue of installation of hard-wired systems; this must be done in the interests of safety; the language is good for all levels of a building. Gary A. agrees with the all levels language being covered, and noted that many alarms are not functioning properly, so effective enforcement measures are critical to solve the problem.

Nancy had a question about why the language is struck regarding batteries. Julie J. explained it should rightly be covered in the Landlord Tenant Act, like other issues including smoke alarms and the presence of mold. Dave added we need to specify the language around fireplaces, and Barb agreed we need to list them. Joe P. asked for the definition of 'appliance' and Tim referred to the fact this is in the Mechanical Code. Gary A referred to section 315.2, and Joe replied that is when it is required for all, but there is no specificity.

Next the group discussed location of the alarms and that it is covered in NFPA 720. Tracey noted this is not as clear as it should be, re: where the alarm should be mounted; she believes the language is unclear. Julie P. noted it depends on the manufacturers' recommendations. Joe wondered if the removal of the date language would have an impact in this regard, but Dave noted it is already required. Barb M. had some concerns about removal of the tenancy language.

Dave K. tested for consensus on his language for R315.1 and consensus was reached, followed by a short lunch break.

Next the group reviewed section R315.2.

Barb suggested combining the Bernard and Allsup proposals. Gary had a problem with dropping the real estate language into the code, and Dave noted it is already in the law. Nancy B. added that the Council had already accepted it when they put it into the earlier rule and approved it. Tim noted that the law requires it upon the point of sale, but the Council did not include point of sale language. Mark M. asked if we could submit a report to the Council to explain that other laws may be affected; he pointed to the language from Gary's proposal in this regard, but explained it won't happen through the building code. Julie P. asked how this would sit with the lobbyists. Bob M. cited RCW 64.06, noting this is the only place it would work, in the seller's disclosure as discussed earlier in the meeting. They have no recommendation right now. Julie J. noted it would constitute a compromise to get language on the date; she suggested adding the fuel-source language back into this section. Mark noted it is unenforceable, and Joe asked how it should be put into the rules.

Nancy noted that when the Council approved the original rule the date for existing dwellings was moved up to July 1, 2011 at the request of the bill sponsor. She accepted that the 'existing dwellings' and the permit connection is logical, but it is not in compliance with the legislature. In fact it would actually exempt the situations and locations where the 2006 CO poisonings occurred. Nancy also noted that the original bill language would have amended the Landlord Tenant Act and the fire marshal's statute; this was brought up in the bill analysis. Julie P. noted the issue was taken up by the RHA and other interest groups. Bob M. noted there were going to be enforcement problems from the perspective of the Realtors, and that he and his organization understand the concerns of building officials.

Rodney noted the timeline is unenforceable, and that whatever is finally decided must be enforceable and reasonable under the SBCC. It needs to be in the purview of the Landlord Tenant Act and meet the needs of Realtors for point of sale issues. Dave K. noted he agreed with the language on permits, ie, when a permit is applied for. Gary noted that although the language allows for enforcement the resources are not available. Nancy noted that universal compliance is not expected, partly due to lack of enforcement resources. However, she went on to say that total enforcement was really not necessary, and should not be expected. Her preferences would include provisions for all dwellings regardless of fuel source, at the time a permit is pulled for remodeling. She can provide a minority report for enforcement issues.

Tracey noted it is not clear whether to exempt certain items, and Julie P. had questions about construction review and permits. Nancy noted exemptions are already in the code, and Barb noted that perhaps things become too complicated, and they should exclude the exceptions. Mark agreed that would be a good idea. Gary noted that the language mirrors that of the smoke alarms. Jim W. asked about exceptions for gas-fired water heaters, but Dave noted that any combustion in the house generates the requirement.

There was some further discussion about the implementation dates and whether or not the dates could be earlier than what the statute requires. Tim noted that earlier implementation is not contrary to law. Nancy noted that adult family homes and child care are DSHS issues. Gary noted that new adult family homes are covered, that a license and a permit are required for these facilities when they change ownership.

The vote was called for on R315.2 with a roll call vote. All voted in favor, except for Barb who voted no; Nancy abstained and will provide a minority report.

See Attachment 1 for the Residential Code proposal as accepted.

Next, the group discussed the F133 proposals submitted by the TAG members. The following members submitted proposals for consideration: Allsup, Bernard, Clower, Johnson, Kokot, Locke, Moilien, Murray, and Schauf. These were briefly introduced and will be further discussed at the next meeting. Dave suggested that group members consider collaboration and combination of proposals. The next meeting will be held March 22, 2011 beginning at 10 a.m. Meeting agenda, location and other details will be sent out by staff. This will be the final meeting of the TAG.

The meeting was adjourned at 2:53 p.m.

