

From: [Boyle, Douglas J \(DHS\)](#)
To: [Guedel, Justin K](#); brownb@greenwood.in.gov
Cc: [Burgess, Craig](#); [Timothy T. Callas](#); [Ash, Kathleen](#); [Skarbeck, Molly](#); [james.schmidt \(james.schmidt@atg.in.gov\)](mailto:james.schmidt@atg.in.gov)
Subject: RE: Petition for Administrative Review - State Building Commissioner's Written Interpretation Number CEB-2019-15-2014 IFC-910.4
Date: Wednesday, July 31, 2019 5:07:00 PM
Attachments: [image001.png](#)

Thank you very much, Mr. Guedel. Based on the information provided, I will advise the Fire Prevention and Building Safety Commission that the petitioner has withdrawn his petition for administrative review prior to an official case file being opened. However, I will need to obtain clarification from the Attorney's General's Office and the Commission's legal counsel regarding if any additional official action is needed to dismiss this petition, even though an ALJ has not yet been assigned to administer the review.

Douglas J. Boyle | Director – Fire Prevention and Building Safety Commission
Indiana Department of Homeland Security
302 W. Washington Street, Room E-208
Indianapolis, IN 46204
Tel: (317) 650-7720
Email: DoBoyle@dhs.in.gov
Web: www.in.gov/dhs



From: Guedel, Justin K
Sent: Wednesday, July 31, 2019 4:50 PM
To: Boyle, Douglas J (DHS) <DoBoyle@dhs.IN.gov>; brownb@greenwood.in.gov
Cc: Burgess, Craig <CBurgess@dhs.IN.gov>; Timothy T. Callas <tcallas@jtconsult.us>; Ash, Kathleen <KAsh@dhs.IN.gov>; Skarbeck, Molly <Molly.Skarbeck@atg.in.gov>
Subject: RE: Petition for Administrative Review - State Building Commissioner's Written Interpretation Number CEB-2019-15-2014 IFC-910.4

Mr. Boyle:

Please see the attached email chain from the parties which includes Petitioner's request to withdraw their petition.

Justin K. Guedel | Deputy General Counsel
Indiana Department of Homeland Security
302 W. Washington Street, Rm. E208
Indianapolis, IN 46204
(317) 234-9515
JGuedel@dhs.IN.gov

From: Boyle, Douglas J (DHS)

Sent: Tuesday, July 30, 2019 12:00 PM

To: brownb@greenwood.in.gov

Cc: Guedel, Justin K <JGuedel@dhs.IN.gov>; Burgess, Craig <CBurgess@dhs.IN.gov>; Timothy T. Callas <tcallas@jtconsult.us>; Ash, Kathleen <KAsh@dhs.IN.gov>; Skarbeck, Molly <Molly.Skarbeck@atg.in.gov>

Subject: Petition for Administrative Review - State Building Commissioner's Written Interpretation Number CEB-2019-15-2014 IFC-910.4

Dear Marshal Brown,

The Fire Prevention and Building Safety Commission, as the ultimate authority for the State of Indiana's building and fire safety laws, is in receipt of your petition for administrative review of the above-referenced written interpretation of State Building Commissioner Craig Burgess, dated 7/29/2019. As provided in my attached letter, the petition for administrative review is timely, and will now be assigned to an administrative law judge (ALJ). The review will be administered by an ALJ in the Attorney General's Office. The judge will contact you to make initial hearing arrangements. A copy of the foregoing document is also being sent to you via U.S. postal mail. If you have any additional questions, you may contact our deputy general counsel assigned to this matter (representing the State Building Commissioner as the respondent), Justin Guedel.

Sincerely,

Douglas J. Boyle | Director – Fire Prevention and Building Safety Commission

Indiana Department of Homeland Security

302 W. Washington Street, Room E-208

Indianapolis, IN 46204

Tel: (317) 650-7720

Email: DoBoyle@dhs.in.gov

Web: www.in.gov/dhs



From: [Bryan Brown](#)
To: [Guedel, Justin K](#)
Cc: [Burgess, Craig](#)
Subject: RE: [External Message] RE: [External Message] Petition for Review
Date: Wednesday, July 31, 2019 3:33:07 PM

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Gentlemen,

Thank you for your time in speaking with me this afternoon. Even with the outcome falling well below what I had expected for the interpretation of this code site. I am requesting that this petition for review be retracted.

Thank you for your time.

Bryan A Brown
Deputy Fire Marshal
brownb@greenwood.in.gov
Office: (317) 882-2599
Fax: (317) 887-5627



From: Guedel, Justin K [mailto:JGuedel@dhs.IN.gov]
Sent: Wednesday, July 31, 2019 1:44 PM
To: Bryan Brown <brownb@greenwood.in.gov>
Cc: Burgess, Craig <CBurgess@dhs.IN.gov>
Subject: [External Message] RE: [External Message] Petition for Review

What's your cell? The Commissioner and I will give you a call, here, shortly.

Justin K. Guedel | Deputy General Counsel
Indiana Department of Homeland Security
302 W. Washington Street, Rm. E208
Indianapolis, IN 46204
(317) 234-9515
JGuedel@dhs.IN.gov

From: Bryan Brown [mailto:brownb@greenwood.in.gov]
Sent: Wednesday, July 31, 2019 1:41 PM

To: Guedel, Justin K <JGuedel@dhs.IN.gov>

Subject: Re: [External Message] Petition for Review

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

I am out of the office, may i call you via cell phone?

On Jul 31, 2019, at 13:38, Guedel, Justin K <JGuedel@dhs.in.gov> wrote:

Mr. Brown:

Are you free for a quick call about your petition for review of the State Building Commissioner's interpretation?

Justin K. Guedel | Deputy General Counsel
Indiana Department of Homeland Security
302 W. Washington Street, Rm. E208
Indianapolis, IN 46204
(317) 234-9515
JGuedel@dhs.IN.gov



July 30, 2019
By Electronic Mail and U.S. Postal Mail

Bryan Brown
Deputy Fire Marshal
Greenwood Fire Department
155 E. Main Street
Greenwood, IN 46142
brownb@greenwood.in.gov

**Re: Petition for Administrative Review – Written Interpretation of the State Building
Commissioner Number CEB-2019-15-2014 IFC-910.4**

Dear Marsal Brown:

The Commission is in receipt of your petition for administrative review of the above-referenced written interpretation of State Building Commissioner Craig E. Burgess, dated 7/29/2019. The petition for review is timely and has been granted by the Commission. The petition has been assigned to the Commission's administrative law judge.

The judge's office will contact you to make arrangements for further proceedings. Should you have any questions, you may contact our deputy general counsel assigned to the matter, Justin Guedel at jguedel@dhs.in.gov or (317) 234-9515.

Sincerely,

Douglas J. Boyle, Director
Fire Prevention and Building Safety Commission
Indiana Department of Homeland Security
302 W. Washington Street, Room E-208
Indianapolis, IN 46204
doboyle@dhs.in.gov
(317) 650-7720

Enclosure

cc: Justin Guedel, IDHS Deputy General Counsel – representing the Respondent (by personal service and electronic mail)
Craig E. Burgess, State Building Commissioner – Respondent (by electronic mail)

Timothy T. Callas, J & T Consulting, LLC – Petitioner of the Written Interpretation (by
electronic mail)
ALJ (by electronic mail)
File

From: [DHS Legal Mailbox](#)
To: [Boyle, Douglas J \(DHS\)](#)
Subject: FW: Petition for Review
Date: Tuesday, July 30, 2019 11:09:01 AM
Attachments: [68379161_CEB-2019-15-2014_IFC-910.4_written_interpretation.pdf](#)
[68380022_IFC_910.4.pdf](#)

From: noreply@formstack.com [mailto:noreply@formstack.com]
Sent: Monday, July 29, 2019 4:30 PM
To: DHS Legal Mailbox <Legal@dhs.IN.gov>
Subject: Petition for Review

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****



Formstack Submission For: [petition for review](#)

Submitted at 07/29/19 4:30 PM

Individual Name:	Bryan Brown
Business Name :	Greenwood Fire Department
Phone Number:	(317) 882-2599
Email Address:	brownb@greenwood.in.gov
Mailing Address:	155 E Main Street Greenwood, IN 46142
Are you represented by an attorney?:	No
Attorney Name:	
Firm:	
Phone Number:	

Email Address:	
Mailing Address:	
Order Number:	0
Facility Device Boiler ID:	
Date Order Received:	Jul 24, 2019
How did you receive the Order? :	Email
Entity Issuing Order:	Indiana Department of Homeland Security
Entity Name:	
Upload Order:	View File
Was this order specifically directed to you?:	Yes
Explain:	Written Interpretation from State Building Commissioner
Have you been aggrieved or adversely affected by the order?:	Yes
Explain:	The written interpretation given to me does not match with the amended section. After having a meeting with Mr. Tim Callas he has stated he would retract his statement. This is now not currently the case.
If the order was not specifically directed to you and you have not been aggrieved or adversely affected by the order, are you entitled to review under some other	No

law? :

What law?:

I request review of the entire order described above:

Yes

If you are not requesting review of the entire order, what is the scope of your request?:

I request a stay of effectiveness:

Yes

What is the basis of your challenge? :

Section 910.4 amended states that in buildings protected throughout with an approved automatic sprinkler system, manually operated exhaust fans may be utilized for fire department mop-up operations.

Mr. Burgess stated that his interpretation is that per section 910.4 the Indiana Fire Code does not require manually operated smoke exhaust fans in high pile storage buildings equipped with ESFR automatic fire protection.

My disagreement with Mr. Burgess comes as his review says with an ESFR system this is not required. The approved system for this building is a ESFR system,thus making his interpretation a bit confusing.

This section has voided the ESFR system, as long as the fire departments are to use them for mop-up operations. I agree that there is nothing stating they shall install these. The big question on my side is the use of the word "may".

I think there needs to be a better understanding of the amended section.

What is your desired outcome? :

To gather the understanding from the State as what they understand "May" to be.

To show that the ESFR system is voided out for fire department mop-up operations.

To be able to speak in part of what can not be typed here.

Additional information in support of my request:

From my understand this amended section was to help fire departments remove smoke from these structures full of cancer causing smoke. The amount of resources needed to effectively vent a 50,000 or greater sq. ft. building would be extremely taxing and take several hours. This in turn would cost the building owner or tenant several thousands of dollars due to not being in the building because its not safe.

Additional Attachments:

[View File](#)

Additional Attachments:

Additional Attachments:

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Formstack, 11671 Lantern Road, Suite 300, Fishers, IN 46038



WRITTEN INTERPRETATION
OF THE
STATE BUILDING COMMISSIONER

Interpretation #: CEB-2019-15-2014 IFC-910.4

Building or Fire Safety Law Interpreted

675 IAC 22-2.4 2014 Indiana Fire Code, Section 910.4 Mechanical Smoke Exhaust

Issue

Whether manually operated smoke exhaust fans are required in high pile storage buildings equipped with ESFR automatic fire suppression systems, under Section 910.4 of the 2014 Indiana Fire Code.

Interpretation of the State Building Commissioner

Section 910.4 of the 2014 Indiana Fire Code does not require manually operated smoke exhaust fans in high-pile storage buildings equipped with ESFR automatic fire suppression systems.

Rationale

The text of 910.4 does not require the installation of manually operated smoke exhaust fans. It merely states that in buildings protected by automatic sprinkler systems these fans “may” be utilized for fire department operations. It then continues, describing minimum required performance characteristics of any such devices that are installed.

Further, high pile combustible storage is a specialized occupancy with its own requirements. It is addressed both in Section 910.2.2, and more comprehensively in its own chapter, 32.

Section 910.2.2 (a sub-section of 910.2, a section which describes under what circumstances smoke and heat removal systems are required, without regard to whether the system is manual or automatic) discusses high pile combustible storage specifically. This section simply states that such systems shall be installed when required by Section 3206.7.

Section 3206.7 states the smoke and heat removal devices shall be installed where indicated in Table 3206.2, and that they shall be installed in accordance with Section 910 (addressed above).

While Table 3206.2 indicates smoke and heat removal systems are required in high pile storage of specific commodity classes (again, without regard to whether they are automatic or manual systems), it also includes two condition statements about the requirement. The first is a reference to Section 3206.7, which, as noted above, states such devices shall be provided in accordance with Section 910; the second is the Table’s footnote “J,” which states smoke and heat removal devices are *not* required when the storage area is protected by ESFR sprinklers installed in accordance with NFPA 13.



WRITTEN INTERPRETATION
OF THE
STATE BUILDING COMMISSIONER

Interpretation #: CEB-2019-15-2014 IFC-910.4

Pursuant to Indiana Code § 22-13-5-2, the attached written interpretation is issued. This interpretation is binding upon Timothy Callas, the *interested person* as defined in Indiana Code § 22-13-5-1, and Johnson County/Greenwood Fire Department.

Effective Date

Pursuant to Indiana Code § 4-21.5-3-4, this interpretation is effective when served.

Review Rights

For general information regarding the administrative review process and other options that may be available to you, please review the information found at this webpage: <https://www.in.gov/dhs/appeals.htm>. If you would like to file a petition for review, you must comply with the requirements Indiana Code § 4-21.5-3-7. You may submit your petition for review by mail, hand delivery, or by completing the form found at this webpage: <https://www.in.gov/dhs/4148.htm>.

Your Petition for Review must:

1. State facts demonstrating that you are:
 - a. a person to whom the order is specifically directed;
 - b. aggrieved or adversely affected by the order; or
 - c. entitled to review under any law.
2. Be filed with the Fire Prevention and Building Safety Commission. If filed by mail, send to:

Indiana Department of Homeland Security
Fire Prevention and Building Safety Commission
302 W. Washington Street, Rm. E208
Indianapolis, IN 46204
3. Be filed within fifteen (15) days after you are given notice of this order. Timeliness is computed by the methods described in Indiana Code § 4-21.5-3-2.

If you comply with these three requirements, your Petition for Review will be granted and will be assigned to an administrative law judge for review. If a qualifying Petition for Review is not timely filed, then this order will become final.

Craig E. Burgess
State Building Commissioner

7.24.2019

Date

(aaaa) Amend Section 910.4, by deleting the text and inserting the following: In buildings protected throughout with an approved automatic sprinkler system, manually operated exhaust fans may be utilized for fire department mop-up operations. The exhaust rate shall be equal to one (1) cfm per square foot of floor area. The fans shall be wired ahead of the main building disconnect switch. Manual controls for the fans shall be provided individually for each fan unit. The servicing fire department shall be consulted in determining the location of the controls for the exhaust fans.

(bbbb) Amend Section 912.2, to delete “The location of fire department connections shall be approved” and insert “The servicing fire department shall be consulted before placing the fire department hose connections at specific locations, or the connections shall be placed as required by local ordinance”.

(cccc) Amend Section 912.2.2, to delete “subject to the approval of” and insert “approved by” in the last sentence.

(dddd) Amend Section 912.3, by deleting the exception without substitution.

(eeee) Amend Section 912.3.1, to delete the words “The fire code official is authorized to require locking caps” and insert “Locking caps are allowed”. (*Fire Prevention and Building Safety Commission; 675 IAC 22-2.5-10*)

675 IAC 22-2.5-11 Chapter 10. Means of Egress.

Authority: IC 22-13-2-2

Affected: IC 22-12-7; IC 22-13; IC 22-14; IC 36-8-17

Sec. 11. Chapter 10 is amended as follows:

(a) Amend Section 1001.2 to delete the text and insert the following: See the General Administrative Rules (675 IAC 12-4-12).

(b) Amend Section 1002 to insert the following definition after “Handrail”: ICC A117.1. See Chapter 11 of the Indiana Building Code (675 IAC 13).

(c) Amend Section 1004.1.2, to delete the exception without substitution.

(d) Amend Section 1004.2, to delete the text and insert the following: The occupant load permitted in any building, or portion thereof, is permitted to be increased from that number established for the occupancies in Table 1004.1.2, provided that all other requirements of the code are also met based on such modified number and the occupant load does not exceed one occupant per 7 square feet (0.65m²) of occupiable floor space. An aisle, seating, or fixed equipment diagram substantiating any increase in occupant load shall be submitted to the building official.

(e) Amend Section 1007.2, to delete the words “one or more” and insert “at least one”.

(f) Amend Section 1007.3 to add a new exception number 7 as follows:

7. Areas of refuge are not required in jails, prisons, or other I-3 occupancies.

(g) Amend Section 1007.5, to delete “1109.7” and insert “1109.8”.

(h) Amend Section 1008.1.1, to delete Exception 8 in its entirety without substitution.

(i) Amend Section 1008.1.5, Exception 5, to delete the text and insert the following: 5. Exterior decks, patios, or balconies that are part of a dwelling unit regulated under part 2 of Chapter 11 of the Indiana Building Code, and have impervious surfaces, and that are not more than four (4) inches (one hundred two (102) mm)