

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3465 HLAB HB 63 - HB 66

341



DEPARTMENT OF HEALTH SERVICES/DEPARTMENT OF INDUSTRIAL RELATIONS

2151 KENNELLY WAY  
BERKELEY, CA 94704  
(415) 540-2115



January 28, 1981

Mr. Byron Moskowitz  
Chairman  
Commission on Housing &  
Community Development  
2371 Luning St.  
Berkeley, CA 94707

Dear Mr. Moskowitz:

I just received a preliminary analysis of polybutylene pipe performed by the California Analytical Laboratories, Inc. (Lab. No. 12343) that contains disturbing data in light of public comments by Steve Pregrun of Shell in response to my questioning about possible contamination of polybutylene.

Specifically, Mr. Pregrun stated that polybutylene does not use plasticizers (p. 74 of the hearing record for 11/24/80). On Table 1, note that Cal Labs found 50-500 ppm of DEHP (DEHP or diethylhexylphthalate) a plasticizer singled out in my unit's final report because of its carcinogenicity in animal testing. It is disturbing that the Commission was given such apparently misleading testimony, since the potential leaching of this compound, if present in the type of PB used for potable water, poses a potential health hazard to consumers.

Obviously, this situation deserves immediate attention because of the health risk at stake. I would be happy to discuss this situation further with regard to the requirement for an EIR.

Sincerely,

A handwritten signature in cursive script that reads "Marc Lappe".

Marc Lappe, Ph.D.  
Chief  
Hazard Evaluation System &  
Information Service

Enclosure

ML:vk

cc: Ephraim Kahn, M.D.  
Kathleen Acree, M.D.

**RECEIVED**  
FEB 4 1981

Dept. of Consumer Affairs  
**EXECUTIVE OFFICE**  
**SACRAMENTO**

TABLE I

<u>Sample</u>	<u>Compound</u>	<u>GC/MS reference scan no.</u> <sup>a</sup>	<u>Estimated level, ppm (mg/kg)</u>
12343-1	butene	V72	0.1-1.0
	acetone	V92	0.5-5.0
	diethyl ether	V160	0.01-0.1
	methyl cyclopentane	V226	0.1-1.0
	methyl cyclohexane	V324	1-10
	3-methyl hexane	V373	1-10
	3-ethyl-3-methyl pentane	V386	1-10
	heptane	V437	1-10
	5 alkanes (>C <sub>16</sub> )	B407, B421, B479 B496, B647	100-1000 total
	butylated hydroxy toluene (BHT)	B533	50-500
	bis (2-ethylhexyl)phthalate (BEHP)	B633 B681	50-500 5000-50,000
a C <sub>18</sub> -C <sub>19</sub> alkene			
12343-2	acetone	V93	0.5-5.0
	diethyl ether	V161	0.05-0.5
	methyl cyclohexane	V325	0.5-5.0
	2,3,3-trimethyl hexane	V388	0.5-5.0
	10 alkanes (>C <sub>16</sub> )	B388, B407, B420, B478, B488, B507, B540, B549, B596, B646	100-1,000 total

NOTES: <sup>a</sup> V = Volatile Organic fraction, B = Base/Neutral (hexane-extracted) fraction.



Radian # 225-065

# **Analysis of Polybutene Pipe Leachate For Selected Organic Species**

**March, 1981**

**Presented to:**

**Shell Development Company  
Westhollow Research Center  
Houston, TX**

**RADIAN**  
CORPORATION

**RADIAN**  
CORPORATION

Radian Contract No. 225-065-07

ANALYSIS OF POLYBUTENE PIPE LEACHATE  
FOR SELECTED ORGANIC SPECIES

12 March 1981

Presented to:

Shell Development Company  
Westhollow Research Center  
3333 Highway 6 South  
Houston, Texas 77082

Prepared by:

Radian Corporation  
P. O. Box 9948  
Austin, Texas 78766

TABLE OF CONTENTS

		<u>Page</u>
1.0	INTRODUCTION . . . . .	1
2.0	RESULTS . . . . .	2
3.0	ANALYTICAL METHODOLOGY . . . . .	7
4.0	SAMPLE CONTROL AND QUALITY ASSURANCE . . . . .	8
5.0	CONCLUSION . . . . .	11

LIST OF TABLES

<u>TABLE</u>		<u>PAGE</u>
2-1	Results from Analysis of Shell Samples . . . . .	4
2-2	Determination Limits for Organic Priority Pollutants . . . . .	5
2-3	Concentration and Recovery of Deuterated Compounds in the Base/Neutral Extracts . . . . .	6

LIST OF FIGURES

<u>FIGURE</u>		<u>PAGE</u>
4-1	Quality Assurance Summary Sheet C . . . . .	9
4-2	Quality Assurance Summary Sheet D . . . . .	10

1.0 INTRODUCTION

This report summarizes Radian's results from the determination of various organic species in four polybutene pipe leachate samples. The samples were analyzed for organic priority pollutants and other specific organic compounds.

This report contains in Section 2.0 Results, and in subsequent sections, a discussion of analytical methodology, sample control and quality assurance/quality control. A discussion of the results is presented in Section 5.0.

2.0 RESULTS

The results from the analyses of the organic priority pollutants and the specific organic compounds requested are summarized in Table 2-1. No other priority pollutants or specific organic compounds were detected in the samples. Table 2-2 summarizes the required sensitivity limit for these species in water according to the methodology employed. In order to obtain this sensitivity limit for the weakly responding compounds, the analytical instrumentation conditions are adjusted such that most of the compounds can be detected at concentrations well below the required limits. For example, the values for toluene reported are below this required sensitivity limit. Although the identification of this compound was done with a high degree of certainty, the quantitative measurement is less precise at these low concentrations.

The mass spectral data files were also examined to determine what other organic compounds were present. During this examination three deuterated compounds were detected in the base/neutral extract. Subsequent conversation with Shell personnel indicated that these compounds were spiked into the water before the leaching study as a quality control indicator. The concentration and percent recovery of these spikes is presented in Table 2-3.

The mass spectral data files were also searched for the following specific organic species:

<u>VOA Fraction</u>		<u>Base/Neutral Fraction</u>
tetrahydrofuran	methyl cyclopentane	alkanes - C <sub>10</sub> -C <sub>30</sub>
dimethyl formamide	methyl cyclohexane	butylated hydroxy
methylethyl ketone	3-methyl hexane	toluene (BHT)
cyclohexanone	3-ethyl-3-methyl pentane	alkenes C <sub>15</sub> - C <sub>20</sub>
butene	heptane	
diethyl ether	2,3,3-trimethylhexane	

With the exception of tetrahydrofuran none of these species were found in any of the samples.

2.0 RESULTS

The results from the analyses of the organic priority pollutants and the specific organic compounds requested are summarized in Table 2-1. No other priority pollutants or specific organic compounds were detected in the samples. Table 2-2 summarizes the required sensitivity limit for these species in water according to the methodology employed. In order to obtain this sensitivity limit for the weakly responding compounds, the analytical instrumentation conditions are adjusted such that most of the compounds can be detected at concentrations well below the required limits. For example, the values for toluene reported are below this required sensitivity limit. Although the identification of this compound was done with a high degree of certainty, the quantitative measurement is less precise at these low concentrations.

The mass spectral data files were also examined to determine what other organic compounds were present. During this examination three deuterated compounds were detected in the base/neutral extract. Subsequent conversation with Shell personnel indicated that these compounds were spiked into the water before the leaching study as a quality control indicator. The concentration and percent recovery of these spikes is presented in Table 2-3.

The mass spectral data files were also searched for the following specific organic species:

<u>VOA Fraction</u>		<u>Base/Neutral Fraction</u>
tetrahydrofuran	methyl cyclopentane	alkanes - C <sub>10</sub> -C <sub>30</sub>
dimethyl formamide	methyl cyclohexane	butylated hydroxy
methylethyl ketone	3-methyl hexane	toluene (BHT)
cyclohexanone	3-ethyl-3-methyl pentane	alkenes C <sub>15</sub> - C <sub>20</sub>
butene	heptane	
diethyl ether	2,3,3-trimethylhexane	

TABLE 2-1. RESULTS FROM ANALYSIS OF SHELL SAMPLES

Pollutant	Concentration, mg/L <sup>total</sup>			
	180°	Room Temperature	Control 180°	Control, Room Temperature
I. Volatile Fraction				
Methylene chloride	.028	.023	.018	.016
Tetrahydrofuran*	.072	.063	.029	.036
Toluene	.002	ND	.002	.002
II. Base/Neutral Fraction				
No Priority Pollutants Detected/No Specific Organic Pollutants Detected				
III. Acid Fraction				
No Priority Pollutants Detected/No Specific Organic Pollutants Detected				

\*Not a priority pollutant. Compound was on list of specific organic pollutants.

TABLE 2-2. SENSITIVITY LIMITS FOR ORGANIC PRIORITY POLLUTANTS

Pollutant	Limit (ug/L)	Pollutant	Limit (ug/L)
<b>I. VOLATILE COMPOUNDS</b>			
IV Acrolein	0.1	23 Acenaphthene	0.01
2V Acrylonitrile	0.1	25 Acenaphthylene	0.01
3V Benzene	0.01	35 Anthracene	0.01
4V bis(Chloromethyl)ether	0.01	42 Benzidine	0.01
5V Bromoform	0.01	53 Benzofuran	0.01
6V Carbon tetrachloride	0.01	58 Benzofuran	0.01
7V Chloro benzene	0.01	73 1,4-Benzofluoranthene	0.01
8V Chlorodibromomethane	0.01	78 1,4-Benzofluoranthene	0.025
9V Chloroethane	0.01	98 Benzofuran	0.01
10V 2-Chloroethylvinyl ether	0.01	102 bis(2-chloroethoxy)methane	0.01
11V Chloroform	0.01	113 bis(2-chloroethyl)ether	0.01
12V Dichlorobromomethane	0.01	123 bis(2-chloroisopropyl)ether	0.01
13V Dichlorodifluoromethane	0.01	138 bis(2-ethylhexyl)phthalate	0.01
14V 1,1-Dichloroethane	0.01	148 4-bromophenyl phenyl ether	0.01
15V 1,2-Dichloroethane	0.01	153 Butyl benzyl phthalate	0.01
16V 1,1-Dichloroethylene	0.01	168 2-chloroanthracene	0.01
17V 1,2-Dichloropropane	0.01	178 6-chlorophenyl phenyl ether	0.01
18V 1,2-Dichloropropane	0.01	183 Chrysene	0.01
19V Ethylbenzene	0.01	198 Dibenz(a,h)anthracene	0.025
20V Methyl bromide	0.01	208 1,2-Dichlorobenzene	0.01
21V Methyl chloride	0.01	213 1,3-Dichlorobenzene	0.01
22V Methylene chloride	0.01	223 1,4-Dichlorobenzene	0.01
23V 1,1,2,2-Tetrachloroethane	0.01	238 3,3'-Dichlorobenzidine	0.01
24V Tetrachloroethylene	0.01	248 Diethyl phthalate	0.01
25V Toluene	0.01	258 Diethyl phthalate	0.01
26V 1,2-trans-Dichloroethylene	0.01	268 Di-n-butyl phthalate	0.01
27V 1,1,1-Trichloroethane	0.01	273 2,4-Dinitrotoluene	0.01
28V 1,1,2-Trichloroethane	0.01	283 2,6-Dinitrotoluene	0.01
29V Trichloroethylene	0.01	298 Di-n-octyl phthalate	0.01
30V Trichlorofluoromethane	0.01	308 1,2-Diphenyl hydrazine (as Acobenzene)	0.01
31V Vinyl chloride	0.01	313 Fluoranthene	0.01
<b>II. PESTICIDES</b>			
1P Aldrin	0.01	323 Fluorene	0.01
2P α BHC	0.01	338 Hexachlorobenzene	0.01
3P β BHC	0.01	348 Hexachlorobutadiene	0.01
4P γ BHC	0.01	358 Hexachlorocyclopentadiene	0.01
5P δ BHC	0.01	368 Hexachloroethane	0.01
6P Caloxone	0.01	378 Indeno(1,2,3-c,d)pyrene	0.025
7P 4,4'-DDT	0.01	383 Isophorone	0.01
8P 4,4'-DDE	0.01	398 Naphthalene	0.01
9P 4,4'-DDD	0.01	408 Microbenzene	0.01
10P α-endosulfan	0.01	413 N-Nitrosodimethylamine	0.01
12P β-endosulfan	0.01	423 N-Nitrosodi-n-propylamine	0.01
13P Endosulfan sulfate	0.01	438 N-Nitrosodiphenylamine (detected as diphenylamine)	0.01
14P Endrin	0.01	448 Phenanthrene	0.01
15P Endrin aldehyde	0.01	458 Pyrene	0.1
16P Heptachlor	0.01	468 1,2,4-Trichlorobenzene	0.01
17P Heptachlor epoxide	0.01	<b>IV. ACID COMPOUNDS</b>	
18P PCB-1242	†	1A 2-chlorophenol	0.075
19P PCB-1264	†	2A 2,4-Dichlorophenol	0.025
20P PCB-1221	†	3A 2,6-Dimethylphenol	0.025
21P 2,4-D232	†	4A 2,6-Dinitro-o-cresol	0.250
22P PCB-1248	†	5A 2,6-Dinitrophenol	0.025
23P PCB-1260	†	6A 2-Nitrophenol	0.025
24P PCB-1016	†	7A 4-Nitrophenol	0.025
25P Toxaphene	†	8A p-Chloro-m-cresol	0.025
		9A Pentachlorophenol	0.025
		10A Phenol	0.025
		11A 2,4,6-Trichlorophenol	0.025

\*EPA has not yet published determination limits for these pollutants.



PAUL A. TAYLOR, Ph.D.  
PRESIDENT

CHARLES J. SODERQUIST, Ph.D.  
VICE PRESIDENT

ANTHONY S. WONG, Ph.D.  
VICE PRESIDENT

RUBY A. ULRICH  
SECRETARY/TREASURER

## California Analytical Laboratories, Inc.

401 NORTH 18th STREET  
SACRAMENTO, CALIFORNIA 95814  
(916) 444-9602

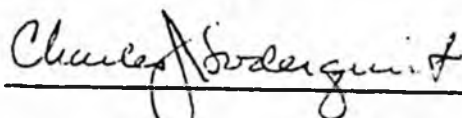
REVIEW AND EVALUATION

OF

RADIAN CORPORATION

(Under Contract for:  
Shell Development Company)

"ANALYSIS OF POLYBUTENE PIPE LEACHATE  
FOR SELECTED ORGANIC SPECIES" March 1981



Charles J. Soderquist, Ph.D.

April 1981

## INTRODUCTION

At the request of Mr. Raymond Leonardini, California Analytical Laboratories, Inc. (C.A.L.) has prepared a brief review and evaluation of the Radian Corporation's "Analysis of Polybutene Pipe Leachate for Selected Organic Species," March 1981. Radian's report was conducted under a contract with Shell Development Company.

While the Radian report is the core document, it cannot be adequately and properly evaluated without reference to the March 13, 1981, letter of S.E. Pregon, Staff Business Representative, Polybutylene Department, Shell Chemical Company, to the Chair of the California Commission on Housing and Community Development. As a result, analysis and evaluation of this letter is also included.

## RADIAN REPORT

The Radian report ("Analysis of Polybutene<sup>1/</sup> Pipe Leachate For Selected Organic Species," March 1981) is typical of that expected from an analytical laboratory. The inclusion of Quality Assurance/Quality Control data (Tables 4-1 and 4-2) and the acceptable recovery of spiked surrogates (Table 2-3) indicates that adequate VOA, Base/Neutral, and Acid fraction GC-MS analyses were performed.

In brief, we find little fault with the Radian data as stated. Radian received certain water samples from an unknown water system, drawn by an unknown separate entity (apparently Shell), and used a standard EPA approved protocol (the standard protocol also used by C.A.L. and other labs for GC-MS analysis). The problem, if there is one, is in what Radian did not report. The inadequacy of the study, in other words, is not in the reporting of the data. Rather it is in the lack of any information regarding the methods of obtaining the leachates.

---

1. The terms "polybutene" and "polybutylene" are interchangeable from a chemical viewpoint. Whether or not this reflects actual differences in the constituent elements or functions of the chemical, e.g. potable water piping vis a vis piping for other purposes, is not known.

For example, we note that the Priority Pollutant List (of 112 selected pollutants) has been used by both Radian and C.A.L. mainly because of its convenience. That is, the protocol has been validated (under EPA sanction) to yield acceptable results, using routine methodology for 112 industrial compounds. There is no objective reason to suspect that any of these Priority Pollutants would be present in polybutylene (or any other) plastic pipe. The list was designed as a screen for industrial chemical plant effluents, not potable drinking water transport devices.

The potential presence of plastic pipe additives (stabilizers, etc.) which are not amenable to this general (GC-MS) technique has not been successfully explored since independent investigators have not had access to manufacturing data. In other words, the method of sample preparation (e.g., the extraction technique) and the style of contaminant identification (GC-MS or others) is dependent, to a certain extent, on some prior knowledge of the potential contaminants.

Organotin compounds, for example, are known additives in some types of plastic pipe, but their presence or absence would not be indicated by the Priority Pollutant GC-MS technique. Knowledge of the possible presence of organotin compounds would allow development of analytical methodologies consistent with assessment of their "leachability" into potable water.

One final comment, minor though troubling, on the Radian report itself. It is uncharacteristic of an analytical laboratory to use the terms "ultratrace" and "insignificant in terms of potential health effects." (Report p. 11) As to the former term, it is a relative term and unscientific. It connotes impressions inappropriate in data reporting.<sup>2/</sup> As to the latter terms, analytical chemists are not qualified to render such medical judgments.<sup>3/</sup>

---

2. For example, 0.072 mg/L THF is labelled "ultratrace," yet is 7 times greater than their presumed detection limit.

3. The toxicity questions and health-effect value judgments are reserved, appropriately, for epidemiologists, pathologists and the like.

SHELL CHEMICAL LETTER OF MARCH 13, 1981

With the absence of the expected scientific explanation in the Radian report, it becomes necessary to review Shell's letter to the Housing Commission wherein some scientific details are given.<sup>4/</sup>

The Material Studied by Radian. At the outset, note that no experimental details of the materials used to leach the pipe are provided. More fundamentally, "water extractable material" (first sentence of Shell's letter) is vague and ambiguous. Since Radian did not construct the pipe experiment, does this terminology mean Radian received the water or some other "extractable material"?

Moreover, assuming Radian received water samples from certain pipe from Shell, what are the characteristics of the pipe itself? Is PB 4127 the same grade as PB 2110? Is it used for potable water? Was the manufacturing (extrusion) process conducted by Shell or an independent manufacturer?

Experimental Procedure. A number of questions should be answered before any useful scientific conclusions can be drawn on the validity of the water samples.

- 1) Was the pipe-to-water ratio consistent with expected consumer use ratios?
- 2) Was the pipe leached in a sealed container (to prevent loss of volatiles)?
- 3) What was the quality of the water?
- 4) Were the leachates delivered to Radian in glass containers? Sealed? With headspace? Bubbles?
- 5) Were samples transported in cold and amber bottles to prevent decomposition? Ambient and in clear glass?

---

4. Please note, however, the letter is written by a "Staff Business Representative" of the Shell Chemical Company. His scientific credentials are not stated. Moreover, it is unusual that the protocol described by this gentleman was not described by Radian. Apparently, though not stated in either document, some lab other than Radian constructed the pipe experiment.

Letter Item 1

"Five days" is not necessarily an "extended period" of time. By comparison, the Montgomery Study of PVC and CPVC for potable water designed multiple holding periods, up to 90 days.

Although unclear in the letter, the likelihood that the client (Shell) and not the independent contract laboratory (Radian) performed the leach procedure raises serious questions about the overall credibility of the study.

Letter Item 2

This item states that the methods were "proven capable of identifying materials at concentrations of one part per billion (ppb)." This is in direct contradiction to the actual Radian report wherein the lowest detection limit noted (Table 2-2) is 10 ppb (0/010 mg/L, ppm).

C.A.L. employs the same GC-MS technique using in-house GC/MS systems for our existing EPA contracts and for our polybutylene research.

Letter Item 3

EPA methods 624 and 625 utilize the same measurement techniques employed by C.A.L. during its pipe study.

Letter Item 4

See the discussion under the Radian test for Priority Pollutants. Note, however, that it is just as scientifically valid to theorize that such contamination resulted from ubiquitous chemical contamination in the manufacturing process.

Letter Items 6, 7, 8

Regarding these questions raised as to the source of DEHP found in the PB pipe by C.A.L., volumes could be written. In the C.A.L. report to Mr. Leonardini (C.A.L. ID # 12343, completed 31 December 80), a summary of the extraction procedure was provided. While the report did not mention the use of reagent "controls," adequate controls were included in the procedure as they are in all analytical work at C.A.L., and in any competent laboratory. C.A.L. is well aware of the ubiquitous

nature of phthalate ester plasticizers, notably DEHP. As mentioned before, stronger scientific hypotheses could be suggested for manufacturing contamination of phthalates in the Shell manufacturing process (or the pipe extrusion process) than in the laboratory context. Given the large amount of DEHP sold annually (2 billion pounds) contamination is indeed more likely at the chemical factory site than the analytical chemist test tube.

## Shell Chemical Company

A Division of Shell Oil Company



One Shell Plaza  
P.O. Box 2463  
Houston, Texas 77001

March 13, 1981

Mr. Myron Moskowitz, Chairman  
Commission on Housing and Community Development  
921 Tenth Street  
Sacramento, CA 95814

Dear Mr. Moskowitz:

As a followup to our meeting of February 23, 1981, we have enclosed data developed on water extractable material leached from PB 4127 polybutylene pipe. We will attempt to summarize the position of Shell Chemical Company on the reason, procedure, and conclusions derived from the analysis.

There have been repeated claims by the California Pipe Trades Council that polybutylene might contain chlorinated hydrocarbons, aromatic hydrocarbons, phthalate plasticizers, or polychlorinated biphenyls and might leach these materials into potable water. Two separate tests have been conducted which challenge all of these allegations. The tests were conducted by Radian Corporation of Austin, Texas, at Shell's request and by California Analytical Laboratories, Inc. for the California Pipe Trades Council.

Let us first discuss the Radian report (copy enclosed) and its findings. Radian is a recognized EPA contractor and often performs analyses of trace contaminants in water for various governmental agencies as well as private industry.

- 1) Polybutylene, PB 4127 pipe, produced from commercial lot No. 10APP016, was cut up and allowed to soak in pure water for five days at temperatures of 73°F and 180°F. This set of conditions was chosen in order to test the pipe under environmental conditions similar to its intended service use. The steps of cutting the pipe and soaking for an extended period were intended to maximize the amount of any extractable materials in the aqueous phase.
- 2) The water leachate was then analyzed by the most sophisticated chemical techniques (i.e., GC/MS). These methods were proven capable of identifying materials at concentrations of one part per billion (ppb).
- 3) The water was analyzed using procedures for water as suggested by the Environmental Protection Agency Methods 624 and 625 as published in the Federal Register on December 3, 1979.
- 4) The data were analyzed for any evidence of the 112 materials listed on the federal Priority Pollutants list. Three materials were found at ultra trace contamination levels in the pipe extract. These are common laboratory contaminants and may have come from a source other than the pipe leachate. (See Table 2-.)

- 5) No trace of any of the alleged carcinogenic materials suggested as possible pollutants by the California Pipe Trades Council were found in the water extract -- meaning that a homeowner would not be exposed to any hazardous materials as a result of having a polybutylene plumbing system. The same statement, of course, cannot be made for metal pipes.
- 6) California Analytical Laboratories, Inc., under the sponsorship of the California Pipe Trades Council, conducted a separate test under conditions which differed in protocol from the Radian procedure. Nevertheless, they were also unable to find any of the many carcinogens which were alleged to exist in polybutylene plumbing pipe. None of the materials claimed to be found by California Analytical Laboratories, Inc. (Table I, Letter of Dr. M. Lappe to the Commission on January 28, 1981) were found in the Radian extraction test.

The basic difference in methodology was that Radian used a water leachate study to represent conditions the pipe would see in service. California Analytical Laboratories, Inc. used large volumes of solvent with small amounts of pipe, thus magnifying the effect of any trace contaminants which might occur in the solvent. Necessary controls to correct for such contamination, if performed at all, were not indicated in the report.

- 7) California Analytical Laboratories, Inc. did claim to find an estimated 50 - 500 ppm of DEHP in their polybutylene extract. Shell maintains that no DEHP is used to produce our pipe resin and, in addition, it is not used for the production or installation of PB pipe. We suggest that whatever was found was not introduced by Shell or our customers and is most likely a result of outside contamination or laboratory procedure.
- 8) As a point of information, an estimated two billion pounds of DEHP was sold in the U.S. during the past five years. This has gone into numerous applications such as shower curtains, seat covers, umbrellas, paper tissue, and notably, scientific laboratory tubing; but none has been used for PB pipe production. It is entirely conceivable, in fact, that the DEHP "found" by California Analytical Laboratories, Inc. was likely contamination from a source within their laboratory.
- 9) As additional backup, we plan to pick up random samples of PB 4127 pipe during the week of March 30, 1981, from various northern California suppliers. These will be tested as a composite sample, to represent a cross section of PB manufacturers. These samples will then be tested in accordance with protocol specified in the Radian report (hopefully prior to the April 20, 1981, meeting).

We invite the California Pipe Trades Council to assist in the sample gathering so they may obtain representative specimens for any further tests they may wish to conduct.

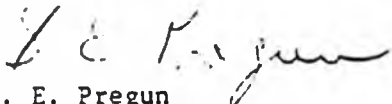
We feel the information already developed clearly indicates that polybutylene plumbing pipe not only does not present a health hazard; in fact, it is now

Mr. Myron Moskowitz, Chairman

3

clearly demonstrated to be less of a concern than any approved piping material. We see no need for this Commission to require an Environmental Impact Report -- rather, it seems, continued delay poses a risk to the health of the consumers of California by depriving them of the opportunity to use this new material.

Sincerely,



S. E. Pregun  
Staff Business Representative  
Polybutylene Department

Enclosure

cc - Mr. William Holliman



TO: CRAGÉ  
PLS DISTRIBUTE TO COMMISSIONERS WB 6/30/81  
STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY/AGRICULTURE AND SERVICES AGENCY

276  
EDMUND G. BROWN JR., Governor

DEPARTMENT OF HEALTH SERVICES/DEPARTMENT OF INDUSTRIAL RELATIONS  
HAZARD EVALUATION SYSTEM AND INFORMATION SERVICE (HESIS)  
2151 BERKELEY WAY  
BERKELEY, CA 94704  
415 540-2115

124  
June 15, 1981



William Holliman  
McDonough, Holland & Allen  
Attorneys at Law  
555 Capitol Mall, Suite 950  
Sacramento, CA 95814

Dear Mr. Holliman:

Two important groups of data remain outstanding for assessing polybutylene's potential toxicity. The first deals with the toxicological effects of the antioxidant, Irganox 1010 or its hydrolysis products in water carried by PB pipe. As you may be aware, Irganox is a chemical analog of butylated hydroxy-toluene (BHT), a food additive in use for over 20 years. Both BHT and Irganox have been represented by Shell as being FDA-approved and, therefore, safe.

Recent developmental toxicological studies have shown that chronic, relatively low level (0.25 - 0.5% in diet) ingestion of BHT can lead to reduced weight gain, increased liver size and raised serum cholesterol in a number of separate animal tests. Other studies have shown reduced litter size following exposure during embryonic development. (For a current review, see C.V. Vorhess, et al, "Developmental neurobehavioural toxicity of butylated hydro-toluene in rats," Food and Cosmetic Toxicology 19: 153-162, 1981.)

These studies do not, of course, directly implicate Irganox; but they suggest by analogy the critical importance of obtaining two types of data for a substance otherwise considered "safe": 1) Leaching rates of Irganox from PB in different water qualities; and 2) Toxicological data pertinent to the levels of exposure likely to be encountered from ingestion of Irganox in water. I understand that latter data has been promised from Ciba-Geigy, but has not yet been received.

The second issue that deserves further study from a toxicological perspective is the possible presence of alkylbenzene sulphonate from PB pipe. Ambiguous data from the first Radian test suggested the presence of this emulsifier in PB pipe. I would like to see further evidence pertaining to this chemical since it is readily soluble and, if present in PB pipe, would be expected to be found in water leachates. However, it might not be seen in washed pipe, a process that I believe is undesirable prior to testing, unless the same washing process is used commercially prior to installation.

Alkylbenzene sulphonate is of concern because it can cause lysis of cells in vitro at levels as low as 5 ppm. While the relevance of such finding for possible occupational or consumer hazards of this substance is currently under review (see G.H. Pigott and J. Ishmael, "A comparison between in vitro toxicity

of PVC powders and their tissue reaction in vivo," Annals of Occupational Hygiene 22: 111-119, 1979), the presence of more than trace quantities of this potent cellular toxin in drinking water would be a cause for concern.

Please inform me of your intention to provide this additional material so that a reasonably complete preliminary assessment of polybutylene may be expeditiously completed.

Sincerely,



Marc Lappe', Ph.D.  
Staff Toxicologist

cc: Myron Moskovitch ✓  
Commission on Housing &  
Community Development

ML/sb



# Memorandum

MEMBER OF THE COMMISSION OF  
HOUSING AND COMMUNITY DEVELOPMENT

Date April 27, 1981

Department of Housing and Community Development  
Office of the Director

I have recently reviewed the current status of the Commission's proceedings concerning the proposed adoption of regulations permitting the expanded use of plastic pipe. I am informed that the Commission is scheduled to decide whether or not an Environmental Impact Report should be prepared prior to taking any action to approve the expanded use of PB water pipe and ABS/PVC vent pipe.

I have reviewed this matter with members of my staff and interested members of the public. After having considered the evidence and discussed the issues with our legal counsel I am convinced that it would be most prudent for the Commission to prepare an EIR before proceeding with any decision to expand the use of plastic pipe.

My recommendation is based upon several factors. There presently is evidence in the record of the existence of potentially hazardous substances such as DEHP in polybutylene pipe and fittings. I am aware that there is also evidence in the record which suggests that there is no potential hazard from PB. Likewise, there is conflicting evidence concerning potential hazards associated with the use of ABS and PVC vent pipe. However, regardless of whether or not there is conflicting evidence, the evidence of potential hazards that has been presented to date is sufficient to legally compel the preparation of an EIR.

The issues in this matter have become extremely complex and esoteric. You are being asked to resolve highly technical questions such as the validity of laboratory studies, a matter which only highly trained specialists in these areas can truly answer. In addition, only within the framework of the preparation of an EIR can a reliable and unbiased answer to these questions be obtained. Such an approach would also serve to reassure an already apprehensive public and instill confidence in the ultimate decision on the merits of plastic pipe.

Page Two  
April 20, 1981

Finally, it is illustrative to remember the tremendous amount of time the Commission has devoted to deliberations on this issue. The Commission started holding hearings on plastic pipe over four years ago, in 1977. Throughout these proceedings the chief controversy has been compliance with CEQA. In this regard, numerous studies, substantial testimony and reams of documents have been presented for your consideration. This controversy could continue before the Commission for months to come. For example, further environmental evidence might be presented to the Commission at the last minute which, as has occurred throughout these proceedings, can lead to further hearings.

The evidence presented to date compels the preparation of an EIR. The only method of ensuring adherence to the law and directing this matter to a reasonable conclusion is for the Commission to require the preparation of an EIR before it takes any action to approve the use of plastic pipe. Therefore, I strongly urge the Commission to take such action.

Sincerely,

I. Donald Turner  
Secretary to the Commission





1020 N STREET, SACRAMENTO, CALIFORNIA 95814  
(916) 445-4465



April 16, 1981

Mr. Myron Moskowitz, Chairman  
Commission on Housing and  
Community Development  
921 Tenth Street  
Sacramento, CA 95814

Dear Chairman Moskowitz:

Transmitted herewith is our argument which demonstrates why, as a matter of law, an environmental impact report regarding polybutylene pipe is required prior to any decision by the Commission as to whether it should be approved for transporting potable water. While the appended document is sufficient to provide the legal justification necessary in this matter, I cannot allow to pass without comment the appalling procedural irregularities in this case and the highly questionable Radian report submitted by Shell Chemical Company with their accompanying letter of March 13, 1981.

I. Procedure

After being informed on April 6 that the April 20 hearing had been postponed for one month, we discovered indirectly on April 14 that the hearing had not been postponed after all! We have only subsequently discovered the intervening sequence of events which must be characterized as incomprehensible and deplorable:

- April 6 -- Upon chance inquiry by Department of Consumer Affairs staff, we were informed the April 20 hearing was postponed one month because Shell claimed it could not be prepared in time. As a result, our brief was not submitted and Commission members have not had the opportunity to review it.
- April 7 -- California Pipe Trades Council attorney was informed of postponement by Housing and Community Development attorney.
- April 7 -- Later the same day, California Pipe Trades Council attorney was informed postponement had been reconsidered and April 20 meeting would be held as previously scheduled.

- April 9 -- Department of Consumer Affairs received a Commission agenda for May 18, 1981, which showed plastic pipe consideration on the agenda.
- April 9 -- Department of Consumer Affairs Director sent a mailgram to the Housing and Community Development Commission Chairman deploring the postponement of the April 20 hearing (copy attached).
- April 10 -- California Pipe Trades Council attorney received Commission agenda for April 20, 1981, which showed plastic pipe consideration on the agenda.
- April 14 -- Member of Community Health Action Coalition (CHAC) informed Roger Dickin on, Department of Consumer Affairs attorney, that he was told by Paul Reynaga, Housing and Community Development attorney, that the hearing on PB pipe is scheduled for April 20.
- April 15 -- Confirmation of April 20 date by Department of Consumer Affairs by phone with California Pipe Trades Council attorney who also related prior conversations and notices detailed above.

We, the petitioners in this instance, have never received a call from Housing and Community Development staff regarding the on-again, off-again status of the April 20 meeting, nor have we been provided with a copy of the information submitted subsequent to the February 23 Commission meeting. We have only obtained information through our own direct inquiry or from a third party. As a result, we have suffered from a lack of information which has unreasonably affected our ability to fully prepare for the April 20 hearing and unfairly prejudiced our opportunity to provide a full, complete, and thorough presentation before the Commission.

## II. The Shell Test Results

Two sets of test results submitted by California Analytical Laboratories, Inc. show the presence of DEHP. Dr. Marc Lappe, Chief of the Hazard Evaluation System for the State, has characterized these results as posing "a potential health hazard to consumers." Given this substantial evidence of potential adverse environmental effects, the courts have made it clear that contrary evidence is insufficient to overcome

the need for an EIR. Therefore, the Shell test results are insignificant in considering whether an EIR is required with respect to PB pipe.

Nonetheless, I am deeply disturbed by the lack of basic information, the lack of specificity, and the lack of consistency in the report and letter submitted by Shell. These shortcomings must certainly call into question the very validity of the testing performed and the results apparently obtained.

For example, the Radian report fails to state at any point how the samples analyzed were prepared. It is only Shell's accompanying letter which reveals that Shell itself procured some unspecified pipe and prepared the samples of "water extractable material," whatever that might be. Not only should these samples, to assure scientific integrity, have been prepared by the laboratory itself, but we have subsequently discovered the pipe analyzed is designed to conduct heat not transport water.

In addition, on page two, the Radian report reveals that Shell personnel spiked the water before the leaching study! Why was the spiking done? Should not the laboratory itself have prepared sufficient samples, including control samples, to assure both the validity and the veracity of their results? How are we to know that Shell followed the recommended EPA protocol? Absent some unimaginable explanation, such a procedure must surely be considered invalid for offering reliable evidence of the potential leaching properties of polybutylene pipe.

Shell claims the pipe was soaked for five days, "an extended period". This characterization must be considered disingenuous at best considering the Montgomery test was based on leaching periods of 30, 60, and 90 days. Further, Shell states in its letter that the methods used to analyze the water leachate were "capable of identifying materials at concentrations of one part per billion (ppb)." In fact, the Radian report shows a detection capability of only 10 parts per billion.

Finally, the Radian results detected the presence of tetrahydrofuran, a compound not previously suggested to be present in polybutylene pipe. Where did it come from and how can a laboratory analysis by an unknown author presume to label it "insignificant in terms of potential health effects"?

In short, it requires no scientific training to harbor serious reservations regarding the validity or utility of the test

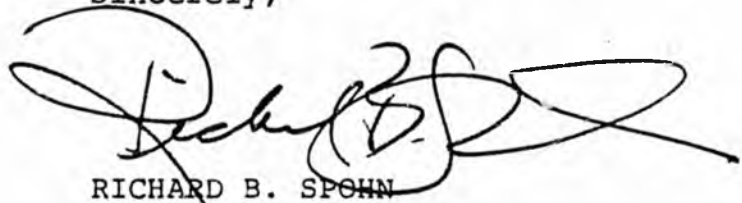
Mr. Myron Moskovitz

-4-

April 16, 1981

results so obligingly supplied by Shell. While, even if fully believable such results would not obviate the need for an EIR, it is distressing indeed to witness such an attempt to influence the Commission.

Sincerely,



RICHARD B. SPOHN  
Director

cc: William Holliman

MAILGRAM BE  
MIDDLETOWN, VA, 22645

western union

Mailgram



1-042539M103 04/13/81 PDS IMPROCC RNC SACA  
00092 9164454465 MGM TDRN SACRAMENTO CA 04-13 1100P PST

CALIFORNIA DEPT OF CONSUMER AFFAIRS ROOM 516  
1020 N ST  
SACRAMENTO CA 95814

RECEIVED  
APR 1 1981

DEPT OF CONSUMER AFFAIRS  
EXECUTIVE OFFICE  
SACRAMENTO

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

9164454465 MGM TDRN SACRAMENTO CA 157 04-08 0918P EST

ZIP

MYRON MOSKOVITZ

2371 EUNICE ST

BERKELEY CA 94708

I DEPLORE YOUR UNILATERAL DECISION TO DELAY THE HEARING ON  
OUR

PETITION REGARDING PR PIPE. YOUR ACTION APPEARS TO BE ANOTHER  
IN THE

LINE OF ADMINISTRATIVE MISFETES WHICH CAUSED POSTPONEMENT  
OF THE

DECEMBER AND JANUARY COMMISSION MEETING. WE SEE NO JUSTIFICATION  
FOR

DELAY IN THE APRIL 20 HEARING ON THE BASIS THAT SHELL WILL  
NOT BE

PREPARED TO OFFER REFUTAL EVIDENCE TO THE CALIFORNIA LABORATORIES

ANALYSTS. PEGA MAKES IT CLEAR THAT SUBSTANTIAL EVIDENCE OF

A  
POTENTIAL SIGNIFICANT ENVIRONMENTAL EFFECT CANNOT BE NEGATED

BY

CONTRARY EVIDENCE. THE APPROPRIATE VEHICLE FOR OBJECTIVELY  
DEVELOPING

AND ANALYZING EVIDENCE OF SIGNIFICANT ENVIRONMENTAL EFFECTS  
IS AN

FIR. I WOULD APPRECIATE BEING CONSULTED PRIOR TO ANY FUTURE  
ACTION OF

THE COMMISSION ON THIS MATTER SO THAT THE INTERESTS OF CALIFORNIA

CONSUMERS WILL BE ADEQUATELY CONSIDERED. I ALSO FORMALLY REQUEST  
THAT

THE COMMUNICATION BE ENTERED ON THE RECORD.

RICHARD R SPORN, DIRECTOR

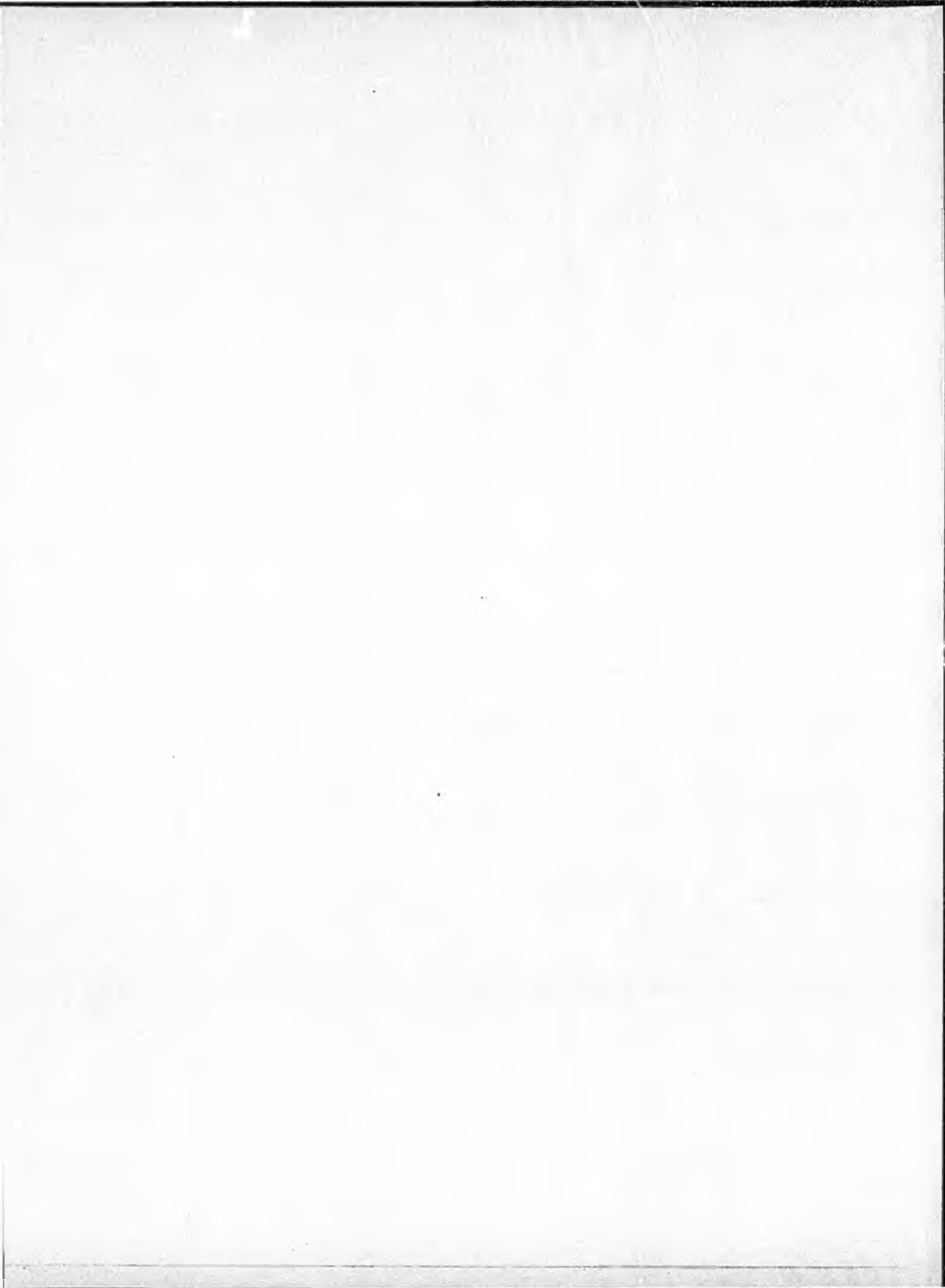
CALIFORNIA DEPT OF CONSUMER AFFAIRS

(EX).

1850 EST

23101 EST

NONCOMP MGM



## Plastic Water Pipes Flunk A State Test

Sacramento

Some laboratory tests indicate plastic water pipes considered for widespread residential use in California may cause sterility and cancer in humans, a state commission was told yesterday.

The Commission on Housing and Community Development had tentatively approved use of the polybutylene pipe, manufactured by Shell Chemical Co., beginning on November 24.

The commission later delayed final authorization for expanded use of the pipe in California to allow more time to consider potential health hazards.

The pipe would be used instead of galvanized or copper pipes.

In yesterday's hearing, state Consumer Affairs Director Richard Spohn said tests by the California Analytical Laboratory indicated a chemical known as DEHP, which has been found to cause cancer and sterility in laboratory animals, may exist in hazardous quantities in the pipe.

"One scientist has dubbed DEHP the equivalent of a chemical vasectomy," Spohn said. "If you do approve the use of this pipe, it is quite likely there will be widespread use throughout the state. You'd want to be pretty certain that you don't cause a massive sterilization."

The commission also received a letter from I. Donald Turner, director of the Department of Housing and Community Development, and a telephone call from state Fire Marshal Phil Favro. Both asked for further study of the pipe.

But Shell's lawyer, William Holliman, told the commission that Spohn gathered all his data from one set of test results and that another laboratory, financed by Shell, has repeatedly found nothing linking the pipe to cancer.

Before Holliman's testimony, Myron Moskowitz, chairman of the Housing and Community Development Commission, said he already had decided to require further study before the pipe was authorized. This statement angered Holliman, who said it "prejudiced the other commissioners" before they had a chance to vote on the issue.

United Press

AB The Sacramento Bee • Tuesday, April 21, 1981 ★ ★



### Cancer Fears Delay Plastic Pipe OK

Laboratory tests indicate that plastic water pipes considered for widespread residential use in California may cause sterility and cancer in humans, a state commission was told Monday.

The Commission on Housing and Community Development has delayed final authorization for use of the polybutylene pipe, manufactured by Shell Chemical Co., on Nov. 24.

In Monday's hearing, state Consumer Affairs Director Richard Spohn said tests by the California Analytical Laboratory indicated a chemical known as DEHP, which has been found to cause cancer and sterility in laboratory animals, may exist in hazardous quantities in the pipe.



State and Consumer Services Agency



OFFICE OF THE SECRETARY  
1220 N STREET SUITE 409  
SACRAMENTO CA 95814  
(916) 445-1935

DEPARTMENT OF CONSUMER AFFAIRS  
DEPARTMENT OF GENERAL SERVICES  
DEPARTMENT OF VETERANS AFFAIRS  
FRANCHISE TAX BOARD  
OFFICE OF THE STATE FIRE MARSHAL  
STATE PERSONNEL BOARD  
STATE TEACHERS' RETIREMENT SYSTEM  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
CALIFORNIA PUBLIC BROADCASTING COMMISSION  
MUSEUM OF SCIENCE AND INDUSTRY  
INTERGOVERNMENTAL PERSONNEL  
ACT GRANT PROGRAM

July 21, 1981

John Gorman  
California Pipe Trades Council  
614 Gibson Road  
Woodland, California 95695

Dear John,

This is in reply to your request for clarification of the legal relationship between the California Building Standards Law and the California Environmental Quality Act (CEQA).

I

Housing and Community Development Commission  
Amendments to 1979 Uniform Plumbing Code

HCD is proposing several amendments to the 1979 UPC by allowing for expanded use of plastic plumbing pipe. After several months of public testimony, the HCD determined (and voted) that prior to any decision to adopt these regulations, an Environmental Impact Report (EIR) must be developed in compliance with the California Environmental Quality Act (CEQA). As you well recall, I appeared at one such hearing (November 24, 1980) and stated on the record that HCD must comply with requirements for an EIR prior to submitting proposed building standards to the SBSC.

While beginning the EIR process, the HCD budget was deleted by the Legislature, casting doubt as to when, if at all, the EIR will be completed. Nonetheless, several legal issues remain. In particular, should the 1982 UPC incorporate all of the HCD proposed amendments to the 79 UPC, may HCD adopt the new code by reference without filing an EIR?

As discussed below, HCD may not adopt such building standards by reference without complying with CEQA. Furthermore, the SBSC cannot approve such adoption without a demonstration of compliance with CEQA by the adopting agency.

## II

## Building Standards and CEQA\*

The new California State Building Standards Law (Chapters 1 - 5 of Part 2.5 of Division 13, Health and Safety Code, Sections 18901 et. seq.) provides for uniformity and consistency in code promulgation through compliance with eight specified criteria (Health and Safety Code § 18930). State agencies, including the Commission on Housing and Community Development, must comply with all of these criteria before any of their "proposed" regulations\*\* can be "approved and have full binding legal effect." (Cf. Health and Safety Code § 18905.)

One such criterion states: "the proposed building standard (must be) within the parameters established by enabling legislation. (Health and Safety Code § 18930(a)(2).) To meet this criterion, the adopting agency must demonstrate compliance with other applicable substantive and procedural requirements of law in its adoption of building standards." 24 Cal. Admin. C. §§ 1-304(c)(2)(C).

The California Environmental Quality Act (Pub. Res. C. §§ 21000 et. seq., "CEQA") is clearly "applicable substantive law." The Legislature, it appears, specifically sought to include building standards within the scope of CEQA:

"All agencies of state government which regulate activities of private individuals, corporations.... shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.: (Pub. Res. C. § 21000(g).) (Emphasis added.)

Therefore, once an adopting agency has made a finding that its proposed building standards are subject to CEQA, and the public record indicates that they have made such a finding, then the SBSC must review and evaluate such building standards in light of CEQA. (Health and Safety Code § 18930(a)(2).)

---

\* This analysis is confined to an interpretation of the Building Standards law (1979 Statutes, Chapter 1152) as it relates to CEQA. An analysis of the State Housing Law, although subject to CEQA, is not provided here.

\*\*Regulations "adopted" by HCD have the character only of "proposed" standards when before the BSC.

Should the adopting agency submit its building standards without compliance with CEQA (whether the submittals are in the form of amendments to model codes or in the model code itself) the standards would fail the above-noted criterion. It would be then my direction to the SBSC that such standards not be approved for failure to comply with clearly applicable statutes.

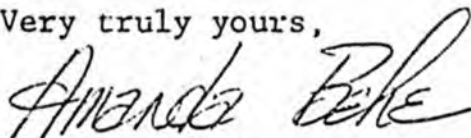
III

Conclusion

An adopting agency cannot avoid compliance with CEQA by adopting a "model" code by reference where the code contains material that was previously found to be subject to CEQA. To do otherwise would violate both the State Building Standards Law and the California Environmental Quality Act.

I hope this letter responds to your concerns. Please call if you have any questions.

Very truly yours,



M. Amanda Behe  
Commission Counsel

MAB:jlr

cc: William Hastie  
Wayne Jensen

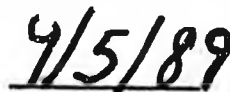


# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

HB

64

COMMITTEE REPORT

3/8

Rules

(7)

HOUSE

2/21/85

FURTHER:

Date: March 6<sup>th</sup>, 1985

(State Affairs waived  
1/21/85)

The Committee on LABOR & COMMERCE has had HB 64

"An Act relating to elevator safety standards."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 64 (LTC) [X] same title [ ] new title

and recommends \_\_\_\_\_

[X] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation [X] Zero Fiscal Note Attached

[ ] referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Mike Anderson  
Phil Rogers  
Gene Bentley  
Christopher Collins  
W.C. ...  
Mike Davis

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Mike Anderson  
CHAIRMAN

HB 64 File Contents

February 21, 1985

- 1) Bill Summary -- Legislative Reporting Service
- 2) Overview -- R. Poppe, Committee Staff
- 3) Governor's Transmittal Letter
- 4) Fiscal Note -- Dept. of Labor
- 5) AS 18.60.800
- 5) Proposed Amendments to HB 64 -- Dept. of Labor
- 6) One copy of ANSI/ASME A17.1-1984 " Safety Code for Elevators and Escalators" for Committee Inspection in Center of Committee Table (blue cover)
- 7) One copy of ANSI/ASME A 17.2 - 1982 "Inspector's Manual for Elevators and Escalators" for Committee Inspection in Center of Committee Table (blue cover)

---

Added February 27, 1985

- 8) Materials from the Dept. of Labor as a result of meeting with Municipality of Anchorage officials and Elevator manufacturers representatives; at request of Committee
  - a. Additional Proposed Amendments to Bill -- Dept. of Labor
  - b. Dept. of Labor Response to Proposed Amendments of Municipality and Elevator Manufacturers
  - c. Letter from Michael Smith, MOA -- February 8, 85, supporting the safety code part of the bill, but not the inspection manual.
  - d. Proposed Amendments to 1985 Municipality of Anchorage Codes regarding elevator safety.

---

Added February 28, 1985 Thursday

- 9) Proposed CS for HB 64 -- By Committee
- 10) FN for CS HB 64 -- Dept. of Labor

INTRODUCTION OF BILLS (House), (cont'd)

HB 62, (cont'd)

the superior court for failure to comply with AS 36.05. Under existing AS 36.05.060, violation of the chapter is a misdemeanor. This enforcement mechanism has not been effective because of the nature of the penalty and the standard of proof required in criminal cases.

Plumbing Code  
(revising)

HOUSE BILL NO. 63, by the Rules Committee by Request of the Governor. Revises current plumbing code. See accompanying letter. Does not provide effective date (takes effect 90 days after Governor signs bill).

Introduced January 16 and referred to Labor & Commerce.

In his message transmitting the bill to the House, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the plumbing code. The International Association of Plumbing and Mechanical Officials revises its minimum standards for the installation of plumbing every three years to incorporate technological advances. The 1985 edition contains the most recent revisions. The standards for the installation of solar energy are new, and the spa and hot tub standards have not previously been adopted in Alaska (the minimum standards for swimming pools were formerly included in the Uniform Plumbing Code). The 1979 code currently in effect in Alaska is outdated, and adoption of the 1985 version would bring Alaska's minimum standards into conformity with those adopted and used by the industry nationwide.

This bill also removes an anomalous provision that commands the Department of Labor to adopt the specific publications that constitute the plumbing code. The current statute leaves no discretion in the department as to whether to adopt or as to what to adopt. Thus the current adoption language is useless and the actions of the department in going through the formal adoption procedures are unnecessary. Under the amendment in the bill, the statute will simply declare what constitutes the plumbing code. This is the approach already employed for the electrical code, for example; see AS 18.60.580. Any publicity value that department adoption might have could be achieved through simpler means.

Elevator Safety  
Standards  
(revising)

HOUSE BILL NO. 64, by the Rules Committee by Request of the Governor. Revises elevator safety standards (see accompanying letter). Does not provide effective date (takes effect 90 days after Governor signs bill).

Introduced January 16 and referred to State Affairs.

In his letter transmitting the bill to the House Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to elevator safety standards. The American Society of Mechanical Engineers revises the safety code for installation and operation of elevators and escalators every three years to incorporate technical advances, and in 1984 it revised the 1981 code. Current state law, which adopts the 1981 version, is therefore outdated, and should be amended to bring Alaska's minimum standards into conformity with those accepted and used by the industry nationwide.

M E M O R A N D U M

TO: All Members, House Labor and Commerce Committee

FROM: Roger Poppe, Committee Staff

DATE: February 21, 1985

SUBJECT: Overview, HB 64

---

On Thursday, February 21, 1985, the House Labor and Commerce Committee meets in Room 102 of the Capitol Building to discuss HB 64: "An act relating to elevator safety standards," from 1:15 to 2:45 pm.

There was no similar legislation submitted last year, and there is no companion legislation submitted this year in the Senate.

Current state law relating to the safety code for installation and operation of elevators and escalators is outdated. In 1984 the American Society of Mechanical Engineers revised the national 1981 code that is currently used in all states including Alaska to include recent technical changes. Further, current law is also outdated in regards to elevator inspections, and Alaska needs to adopt the updated 1982 code changes to replace the now outdated 1979 inspection manual.

Two minor technical amendments to the bill are requested by the Dept. of Labor, as explained in the Commissioner's Letter of January 29, 1985.

A check with the representatives of the elevator and escalator manufacturers turned up a lot of initial concern on this issue, but subsequent meetings with them and the Dept. of Labor personnel established that many of these concerns were either in effect already through federal law, or else were already a part of state statutes and not a part of this bill.

Nevertheless, a few concerns remain, in particular the concern that inspectors would be using the inspector's manual (which they feel is only intended as a guideline) rather than the 1985 Safety Code as the source for their enforcement activity; and so we have a teleconference scheduled with Anchorage only to cover the brief concerns of the following companies and their representatives:

- 1) Scott Dicker, Otis Elevator Branch Manager
- 2) Ralph Likeness, U. S. Elevator Co.
- 3) Jerry Clevenger or Joe Mitchell, C.M.W. Elevator Company

Mike Smith, a local elevator inspector, may also testify.

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 15, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to elevator safety standards. The American Society of Mechanical Engineers revises the safety code for installation and operation of elevators and escalators every three years to incorporate technical advances, and in 1984 it revised the 1981 code. Current state law, which adopts the 1981 version, is therefore outdated, and should be amended to bring Alaska's minimum standards into conformity with those accepted and used by the industry nationwide.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield  
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 64  
 Title: "An Act relating to  
 elevator safety standards"  
 Sponsor: Governor  
 Requestor: House Labor & Commerce  
 Date of Request: 2/21/85

FISCAL DETAIL

Agency Affected: Labor  
 Program Category Affected: Public Protection  
 BRU, Program or Subprogram(s) Affected: Labor Standards & Safety  
 mechanical inspection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: <sup>18</sup> Robert J. Bacolas, Jr. *R. Bacolas* Phone: 465-4870  
 Division: Labor Standards & Safety Date: 2/21/85  
 Approved By Commissioner: <sup>135</sup> Jim Robison *Jim Robison* Date: 2/21/85  
 Agency: Labor

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

Collateral references. — 26 Am. Jur. 2d, Elevators and Escalators, §§ 1-13.

39A C.J.S., Health and Environment, §§ 28-32.

What is "passenger elevator" within safety statute or regulation. 77 ALR2d 477.

Liability of owner or operator for injury caused by door of automatic passenger elevator. 63 ALR3d 893.

Liability of installer or maintenance company for injury caused by failure of automatic elevator to level at floor. 63 ALR3d 996.

Liability for injury caused by fall of person into shaft, or by abrupt drop, sudden movement, or stopping between floors, of automatic passenger elevator. 64 ALR3d 950.

Liability of installer or maintenance company for injury caused by door of automatic passenger elevator. 64 ALR3d 1005.

Liability of owner or operator for injury caused by failure of automatic elevator to level at floor. 64 ALR3d 1020.

**Sec. 18.60.800. Elevator safety standards.** (a) The 1978 edition of the American National Standards Institute Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks published by the American Society of Mechanical Engineers is adopted as the minimum elevator safety code in the state.

(b) The Department of Labor shall

(1) adopt or change regulations to carry out the provisions of AS 18.60.800 — 18.60.820;

(2) inspect and certify elevators to meet the safety requirements;

(3) establish, by regulation, fees for inspections performed under AS 18.60.800 — 18.60.820; and

(4) maintain a record of all inspections performed and of all inspection fees collected.

(c) Inspections of elevators by the department shall be performed in accordance with the procedures set out in the American National Standards Institute's Practice (Inspector's Manual — ANSI 17.2), as approved May 29, 1973.

(d) In AS 18.60.800 — 18.60.820, "elevator" includes elevators, dumbwaiters, escalators and moving walks. (§ 1 ch 44 SLA 1976; am § 1 ch 20 SLA 1979)

**Effect of amendments.** — The 1979 amendment, in subsection (a), substituted "1978 edition of the American National Standards Institute Safety Code" for "Department of Labor shall adopt the 1971 edition of the American National Stan-

dard Safety Code" and "elevator safety code in" for "elevator safety standards of" and inserted "is adopted"; in subsection (b), deleted "and" from the end of paragraph (1) and added paragraphs (3) and (4); and added subsections (c) and (d).

**Sec. 18.60.810. Emergency power source.** All elevators which do not have an alternate power source shall be equipped with an emergency power source which will produce sufficient power to provide lights inside the elevator and a ringing alarm which can be heard in the building for five hours. (§ 1 ch 44 SLA 1976)

**Sec. 18.60.820.** Labor inspector shall inspect each violation 15 days after notified does 1 ment of Labor violations are

Section 822. Snow safety

Collateral refe Health and Envir

**Sec. 18.60.820.** not be operate approved (1) by the cor (2) by the age the ski area ope

Cross references on claims arising 09.65.135.

Cha

Section 10. Certificate of fitr 20. Application for a icate 30. Fee 40. Duration of certif

For comparison of AS 08.40.005 — 08.4 Administrators," sec

Bill No. House Bill No. 64  
Title "An Act relating to elevator safety standards."

Date February 21, 1985  
Contact: Robert J. Bacolas  
465-4870  
Eileen Plate  
465-2700

Every three years, the American Society of Mechanical Engineers updates the safety code for elevators and escalators to incorporate technical advances; and in 1984 it revised the 1981 code. House Bill No. 64 provides for the adoption of the 1984 code.

This bill also provides for adoption of the latest Inspection Manual which is used as a guideline by the Department's elevator inspectors.

Adoption of the latest code and inspection manual will bring Alaska's minimum standards into line with these commonly accepted and used by industry and by political subdivisions in their building inspection programs.

The Department would request that two provisions in House Bill No. 64 be amended, as follows:

Sec. 1, line 13, needs to be amended to read:

safety code in the state. Section 1001.1 [1001.1a], Inspection and Test Periods of the

We were not aware when we drafted our bill that the number and title of the referenced section had been changed in the 1984 code.

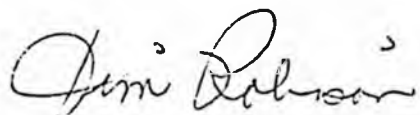
Sec. 2, line 22, needs to be amended to read:

approved in 1982 [FEBRUARY 15, 1979].

The 1984 inspection manual was not adopted by the American Society of Mechanical Engineers as we had anticipated. Accordingly, the 1982 edition is the latest available.

House Bill No. 64 will not have a fiscal impact on the Department.

APPROVED:



Jim Robison, Commissioner  
Department of Labor

# STATE OF ALASKA

## DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

P.O. BOX 1149  
JUNEAU, ALASKA 99802  
PHONE: (907) 465-2700

February 27, 1985

The Honorable Mike Navarre  
Chairman, Labor and Commerce Committee  
House of Representatives  
Pouch V  
Juneau, AK 99811

Dear Representative Navarre:

As you requested during the February 21, 1985 hearing on House Bill 64, enclosed are copies of the seven proposals Scott Dicker of Otis Elevator Company provided us with. The specific proposals came from the Municipality of Anchorage, CMW Elevator Company of Anchorage and T.R. Slaton, a consulting electrical engineer from Anchorage.

Also enclosed are the Department's responses to the individual proposals. You will note that the Department concurs with the recommendation in proposal #4, that Section 111.12 of the 1984 Elevator Code not be adopted by the State of Alaska. The following amendments to House Bill 64 are required to achieve this.

Sec. 1, line 13, needs to be amended to read:

safety code in the state. Section 111.12, Restricted Opening of Hoistway Doors and/or Car Doors on Passenger Elevators, and Section 1001.1 [1001.1a], Inspection and Test Periods of the

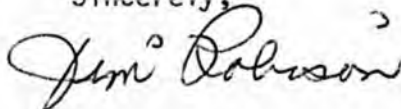
Sec. 1, line 15, needs to be amended to read:

Escalators are [IS] not adopted as a part of the minimum elevator safety

My understanding is that the other concerns expressed in the enclosed proposals have been satisfied.

Thank you for your continued help with this bill.

Sincerely,



Jim Robison  
Commissioner

Enclosures

Department of Labor Response  
to proposed Amendments to  
1984 Elevator Code

Proposal 1:  
(Municipality  
of Anchorage) Do not Adopt the National Safety Practice for the Inspection of Elevators and Escalators (Inspector's Manual--ANSI/ASME A17.2 as set out in Section 2 of House Bill 64.

Department's  
Response: The A17.2 Inspectors Manual is used by the department as a guide to assure uniform application of minimum elevator standards. It is important to continue to include this provision in the law as it advises the public and industry of the procedures used by the Department when conducting inspections.

Proposal 2:  
(Municipality  
of Anchorage) Amend Section 2000.7A of the Elevator code to provide that the travel of handicapped elevators should not exceed 6 feet.

Department's  
Response: Section 2000.7 of the Elevator code provides that the travel of a handicapped elevator shall not exceed 12 feet. Since a handicapped car is required to have key operation and cannot penetrate a floor, the Department does not believe 12 feet of travel poses any safety problems.

The Department would point out that the municipality could, by local ordinance, adopt the more stringent 6 foot maximum if it wished.

Proposal 3:  
(Municipality  
of Anchorage) The 1984 ANSI A17.1 Code for Elevators and Escalators should be adopted.

Department's  
Response: The Department concurs. The 1984 code is the latest code, and the 1981 code now in effect is outdated.

Proposal 4:  
(Municipality  
of Anchorage) Section 111.12 of the 1984 Elevator code should not be adopted.

Department's  
Response: The Department concurs. This provision requires installation of a positive device to prevent elevator doors from being opened if the elevator is more than 18 inches from the floor. This could impede evacuation of passengers by emergency personnel in case of a fire or other emergency.

Proposal 5:  
(Municipality  
of Anchorage) Add a requirement to Section 101.32 of the Elevator Code to provide that access to machine rooms cannot be over the roof of unless a closed walkway is provided.

Department's  
Response: The Department has no particular problem with the intent of this proposal. However, here again the municipality could, by local ordinance, adopt the more stringent provision it is seeking. In the interest of minimizing deviations from the Elevator Code, the Department would prefer such a local remedy.

Proposal 6:  
(T.R. Slaton  
Consulting  
Electrical  
Engineer) The Uniform Building Code and Elevator Code contain conflicting provisions in smoke detector requirements.

Department's  
Response: The conflict between the Elevator Code A17.1 and the Uniform Building Code Section 5103.4(D) will not affect the Elevator Code. The Elevator Code would supersede the UBC when there are conflicts between the two codes.

Proposal 7:  
(CMW Elevator  
Company) Amend the Elevator Code to permit the use of mathematical formulas in lieu of test weights.

Department's  
Response: The Department is opposed to this proposed amendment. The Department has witnessed valve failures when the weight test was administered to the elevator, and the use of the mathematical formula would never have revealed this safety problem. To the department's knowledge, this is not an acceptable practice anywhere else in the United States.

# Municipality of Anchorage



POUCH 6-650  
ANCHORAGE, ALASKA 99502-0650  
(907) 786-8160

TONY KNOWLES,  
MAYOR

DEPARTMENT OF PUBLIC WORKS  
(3500 East Tudor Road)

February 8, 1985

To Whom It May Concern:

I believe the adoption of ANSI A-17.1-1984 elevator is needed. The Municipality of Anchorage is now in the process of adopting the 1984 Code with a few proposals for local amendments.

However, I don't believe the A-17.2 inspector's manual should be adopted as law. The preface of the manual indicates the following:

## PREFACE FROM A-17.2

This Manual is intended to serve only as a guide for the general use of inspectors. While it is in general based on the rules of the A17.1 Code, it also contains recommendations for the inspection of equipment which is not required to conform to that Code. Reference to the rules of the A17.1 Code are applicable to the 1971 edition including Supplement ANSI A17.1a-1972 thereto. While many legal codes, including additional orders, amendments, changes, or interpretations issued by the enforcement authorities are based upon the A17.1 Code, inspectors should be guided by whatever elevator code is legally in force. Any recommendations made herein apply only insofar as they conform to the legal requirements. It is not intended that this Manual be used as, or in place of a legal elevator code, but rather that it be used in whole or in part as a practical guide to the inspection of elevators, escalators and moving walks.

The terms *Section*, *Rule*, or *Table* refer to the identifying section, rule, or table, in ANSI A17.1-1971. The term *Item* refers to a numbered portion of this Manual.

*Michael L Smith*

Michael Smith  
Elevator Inspector  
Building Safety Division  
Department of Public Works

#2

FORMS FOR PROPOSALS FOR THE 1985 MUNICIPAL CODE(S)

Proposals are to be received no later than January 31, 1985.

INSTRUCTIONS

Please type or print in BLACK ink. Use separate copy for each proposal. Limit each proposal to a single section or article.

Date 2/7/85 Proposer's name Michael Smith, Telephone No. 786-8322  
Elevator Inspector

Address Municipality of Anchorage, Dept. Pub. Works, Bldg. Safety Div., Pouch 6-650  
Anchorage, AK 99502-0650 3500 East Tudor Road (Street Address)

PROPOSED CHANGE:

1 - CODE/Amendment identification number PART XX Sec/parag 2000, 7A

2 - Proposal (include proposed new wording, or identification of wording to be deleted):

The travel shall not exceed 6 feet

3 - Statement of problem and substantiation for proposal:

12 feet of travel could be used for an elevator. I feel the 12 foot is too high for the type safetys on this type equipment.

#3

FORMS FOR PROPOSALS FOR THE 1985 MUNICIPAL CODE(S)

Proposals are to be received no later than January 31, 1985.

INSTRUCTIONS

Please type or print in **BLACK** ink. Use separate copy for each proposal. Limit each proposal to a single section or article.

Date 2/7/85 Proposer's name Michael Smith, Telephone No. 786-8322  
Elevator Inspector

Address Municipality of Anchorage, Dept. Pub. Works, Bldg. Safety Div., Pouch 6-650  
Anchorage, AK 99502-0650 3500 East Tudor Road (Street Address)

PROPOSED CHANGE:

1 - CODE/Amendment identification number \_\_\_\_\_ Sec/parag \_\_\_\_\_

2 - Proposal (include proposed new wording, or identification of wording to be deleted):

Adopt 1984 ANSI A-17-1 Code for elevators/escalators.

3 - Statement of problem and substantiation for proposal:

It is latest elevator and escalator code.

#4

FORMS FOR PROPOSALS FOR THE 1985 MUNICIPAL CODE(S)

Proposals are to be received no later than January 31, 1985.

INSTRUCTIONS

Please type or print in BLACK ink. Use separate copy for each proposal. Limit each proposal to a single section or article.

Date 2/7/85 Proposer's name Michael Smith, Telephone No. 786-8322  
Elevator Inspector

Address Municipality of Anchorage, Dept. Pub. Works, Bldg. Safety Div., Pouch 6-650  
Anchorage, AK 99502-0650 3500 East Tudor Road (Street Address)

PROPOSED CHANGE:

1 - CODE/Amendment identification number part 1 Sec/parag 111.12

2 - Proposal (include proposed new wording, or identification of wording to be deleted):

Delete Section 111.12 completely.

3 - Statement of problem and substantiation for proposal:

Passengers would not be able exit the and emergency personnel personnel, fire fighters, etc. would not be able to enter the car.

#5

FORMS FOR PROPOSALS FOR THE 1985 MUNICIPAL CODE(S)

Proposals are to be received no later than January 31, 1985.

INSTRUCTIONS

Please type or print in BLACK ink. Use separate copy for each proposal. Limit each proposal to a single section or article.

Date 2/7/85 Proposer's name Michael Smith, Telephone No. 786-8322  
Elevator Inspector

Address Municipality of Anchorage, Dept. Pub. Works, Bldg. Safety Div., Pouch 6-650  
Anchorage, AK 99502-0650 3500 East Tudor Road (Street Address)

PROPOSED CHANGE:

1 - CODE/Amendment identification number \_\_\_\_\_ Sec/parag \_\_\_\_\_

2 - Proposal (include proposed new wording, or identification of wording to be deleted):

Add to 101.32 requirements for means of access to machine rooms can not be over the roofs or closed walkway out of the weather will be provided.

3 - Statement of problem and substantiation for proposal:

Do to weather conditions in Alaska, roof access is very hazardous.

# 6

FINAL DATE FOR RECEIPT OF COMMENTS: \_\_\_\_\_

Return or  
Mail to:

T. G. SLATON, P.E.  
CONSULTING ELECTRICAL ENGINEER  
3020 KAYK AVENUE  
ANCHORAGE, AK 99503  
(907) 562-0218

Date \_\_\_\_\_ Name \_\_\_\_\_ Telephone \_\_\_\_\_

Address \_\_\_\_\_

Organization Represented self

1. Comment on: A. Code UBC chap 51, B. 5103.4(d) Section No. \_\_\_\_\_  
C. Title 23 \_\_\_\_\_  
Amendment No. \_\_\_\_\_

2. Comment (include proposed wording, or identification of wording to be deleted):

UBC chapter 51 and the elevator code disagree on when lobby smoke detectors are required: any elevator, or three landings or over 25' travel.  
The use of toggle non-fused disconnects for elevator car lighting circuits in the machine room, instead of SPST fused switches should be allowed for more convenient maintenance.

3. Statement of Problem and Substantiation for Comment:

*suggest deleting 5103.4(d) and leave ANSI Elevator code in effect.*

4.  This comment is original material.  
 This comment is not original material; its source (if known) is as follows: \_\_\_\_\_

(Note: Original material is considered to be the submitter's own idea based on or as a result of his own experience, thought, or research and, to the best of his knowledge, is not copied from another source.)

I agree to give the Municipality of Anchorage all and full rights, including rights of copyright, in this Comment and I understand that I acquire no rights in any publication of Title 23 in which this Comment in this or another similar or analogous form is used.

T. G. Slaton  
Signature

FORMS FOR PROPOSALS FOR THE 1985 MUNICIPAL CODE(S)

Proposals are to be received no later than January 31, 1985.

INSTRUCTIONS

Please type or print in BLACK ink. Use separate copy for each proposal. Limit each proposal to a single section or article.

Date 1/29/85 Proposer's name CNW Company Telephone No. 278-1732  
Address P.O. Box 101433 Anchorage, ALASKA 99510

PROPOSED CHANGE:

- 1 - CODE/Amendment identification number \_\_\_\_\_ Sec/parag \_\_\_\_\_
- 2 - Proposal (include proposed new wording, or identification of wording to be deleted):

*In lieu of test weights mathematical formula may be used*

- 3 - Statement of problem and substantiation for proposal:

*Documentation for change has been submitted to ANSI Code con. for adoption.*

Moen  
2/27/85 ✓

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 64 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to elevator safety standards."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 18.60.800(a) is amended to read:

9 (a) Except as provided in this subsection, the 1984 [1981]  
10 edition of the American National Standards Institute Safety Code for  
11 Elevators and Escalators (ANSI/ASME A17.1) published by the American  
12 Society of Mechanical Engineers is adopted as the minimum elevator  
13 safety code in the state. Section 111.12, Restricted Opening of  
14 Hoistway Doors and/or Car Doors on Passenger Elevators, and section  
15 1001.1 [SECTION 1001.1a], Inspection and Test Periods of the American  
16 National Standards Institute Safety Code for Elevators and Escalators  
17 are [IS] not adopted as a part of the minimum elevator safety code in  
18 the state.

19 \* Sec. 2. AS 18.60.800(c) is amended to read:

20 (c) Inspections of elevators by the department must [SHALL] be  
21 performed in accordance with the procedures set out in the National  
22 Safety Practice for the Inspection of Elevators and [,] Escalators  
23 [AND MOVING SIDEWALKS] (Inspector's Manual -- ANSI/ASME A17.2) as  
24 approved in 1982 [FEBRUARY 15, 1979].  
25  
26  
27  
28  
29

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CS HB 64 (L&C)  
 Title: "An Act relating to  
 elevator safety standards"  
 Sponsor: Governor  
 Requestor: House Labor & Commerce  
 Date of Request: 03/01/85

FISCAL DETAIL

Agency Affected: Labor  
 Program Category Affected: \_\_\_\_\_  
Public Protection  
 BRU, Program or Subprogram(s) Affected:  
Labor Standards & Safety  
Mechanical Inspection

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: <sup>13</sup> Robert J. Bacolas, Jr.  
 Division: Labor Standards & Safety

Phone: 465-4870  
 Date: 03/01/85

Approved by Commissioner: <sup>13</sup> Jim Robinson  
 Agency: Labor

Date: 03/01/85

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

7/1/84

Introduced: 1/16/85  
Referred: State Affairs

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 64

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to elevator safety standards."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 18.60.800(a) is amended to read:

9 (a) Except as provided in this subsection, the 1984 [1981]  
10 edition of the American National Standards Institute Safety Code for  
11 Elevators and Escalators (ANSI/ASME A17.1) published by the American  
12 Society of Mechanical Engineers is adopted as the minimum elevator  
13 safety code in the state. Section 1001.1a, Inspection Periods of the  
14 American National Standards Institute Safety Code for Elevators and  
15 Escalators is not adopted as a part of the minimum elevator safety  
16 code in the state.

17 \* Sec. 2. AS 18.60.800(c) is amended to read:

18 (c) Inspections of elevators by the department must [SHALL] be  
19 performed in accordance with the procedures set out in the National  
20 Safety Practice for the Inspection of Elevators and [,] Escalators  
21 [AND MOVING SIDEWALKS] (Inspector's Manual -- ANSI/ASME A17.2) as  
22 approved in 1984 [FEBRUARY 15, 1979].

1984



# RECORDS CERTIFICATION

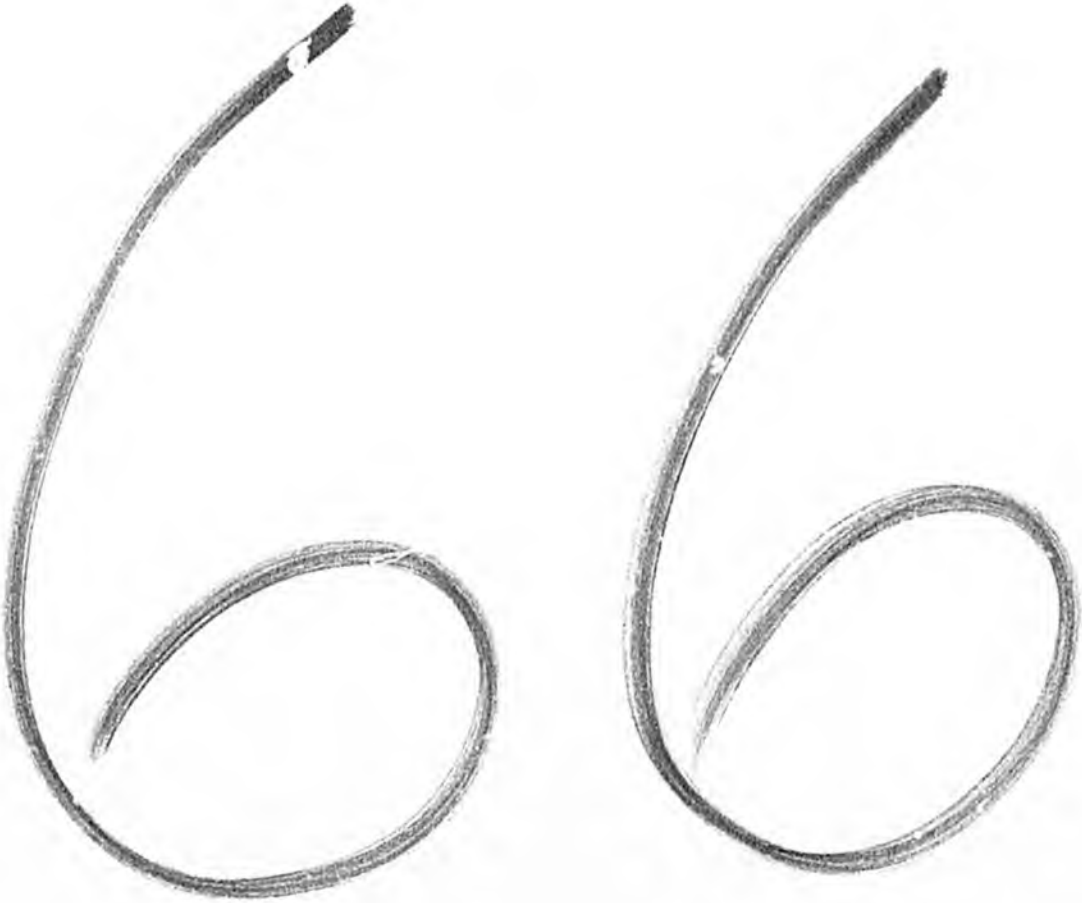


I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

*James O. Smith*  
Signature of Camera Operator

*9/5/89*  
Date

H B





Bill No. House Bill 65

Date January 21, 1985

Title "An Act relating to workers' compensation;  
and providing for an effective date."

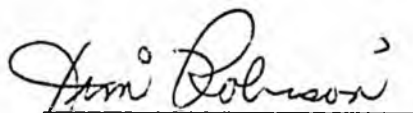
Contact J. L. McClintock  
465-2790

The Department of Labor and the Workers' Compensation Board recommends passage of House Bill 66, providing an additional board panel for Southcentral Alaska. This increases the composition of the board from eight lay members to ten lay members.

The additional board panel is required for the Southcentral region in order to expeditiously handle the heavy board hearing load for that area. In the past, it took up to four months for parties to obtain a board hearing in the Anchorage area. By scheduling additional hearing rounds, which more than doubles the days Southcentral board members sit hearings compared to the other panels, we have been able to schedule parties for hearing within 45 to 60 days. However, the lay board members are unable to dedicate that much time to hearings because of their job commitments in the private sector. During the last two years, three Southcentral board members have been forced to resign board positions due to the expanded hearing schedule.

It is critical that an additional board panel be added in Southcentral so that the expanded hearing schedule will be met, allowing the parties to be scheduled for hearing within 45 days.

APPROVED

  
\_\_\_\_\_  
Jim Robison  
Commissioner

**POSITION PAPER/**Department of Labor

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: HB 66  
 Title: "An Act relating to  
 workers' compensation."  
 Sponsor: Rules Committee  
 Requestor: House Labor & Commerce  
 Date of Request: 1/16/85

FISCAL DETAIL

Agency Affected: Labor  
 Program Category Affected: Public  
 Protection  
 BRU, Program or Subprogram(s) Affected: Workers' Compensation

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: <sup>13</sup> Jacquelyn L. McClintock *Jacquelyn L. McClintock* Phone: 465-2790  
 Division: Workers' Compensation Date: 1/18/85  
 Approved by Commissioner: <sup>13</sup> Jim Robison *Jim Robison* Date: 1/18/85  
 Agency: Labor

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

7/1/84

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 6, 1985

SUBJECT: Senate CS for HB 66

TO: Senator Fred Zharoff  
Chair, Labor and Commerce Committee

FROM: Mike F. Ford *M.F.*  
Legislative Counsel

You have asked for an explanation of the technical change made to line 19 of the above referenced bill. The bill as introduced changed the word "shall" to "must", and the CS prepared by this agency deleted that change. The reason for the deletion of the change made in the original bill is that "shall" is the correct word to use to impose a duty upon someone, as is done in line 19 and 20. See Manual of Legislative Drafting (1985) pp. 51 and 52. This office routinely makes such corrections to governor's bills when preparing committee substitutes.

The word "must" is used when describing things or criteria. For example the word "must" is correctly used in line 16 of Senate CS for HB 66, in that "must" refers to panels of the compensation board. The reason that line 19 is somewhat harder to apply these rules to, is that the sentence is written in the passive voice, rather than in the active voice as this agency usually drafts such provisions. For example the sentence would read in the active voice as, "The governor shall appoint the latter two member of each panel, subject to confirmation by a majority of the members of the legislature in joint session."

If I can be of further assistance please let me know.

MFF:ojb  
J11/060

TO MIKE  
FROM ROGER

HB 66 on Floor

THIS BILL ADDS 3 ADDITIONAL MEMBERS TO THE ALASKA WORKERS COMPENSATION BOARD. THEY WILL BE ASSIGNED AS AN EXTRA PANEL THAT IS BEING CREATED ON THE BOARD (THUS INCREASING THE BOARD FROM 4 PANELS TO 5 PANELS, AND FROM 12 MEMBERS TO 15 MEMBERS) AT THE REQUEST OF THE COMPENSATION BOARD ITSELF, WITH THE SUPPORT OF THE GOVERNOR AND THE DEPARTMENT OF LABOR.

THE PURPOSE OF THIS EXPANSION IS TO HANDLE THE INCREASED HEARING CASE LOAD NOW EXISTING IN THE SOUTHCENTRAL AREA OF THE STATE. CURRENTLY, THE SOUTHCENTRAL PANEL, WHICH SERVES THE ANCHORAGE AREA, HAS LAY MEMBERS THAT IN 1985 HAD TO ATTEND 125 HEARING DAYS ON THEIR OWN TIME AS VOLUNTEERS, AND SO FAR IN 1985 THEY HAVE 94 DAYS SCHEDULED.

WHAT THIS BILL <sup>does</sup> ~~WOULD DO~~, BY ADDING AN EXTRA PANEL TO THE <sup>South Central</sup> ANCHORAGE AREA, <sup>is</sup> ~~WOULD BE~~ TO CUT THE CASE LOAD OF HEARING DAYS IN HALF FOR THE LAY MEMBERS OF THE BOARD WHO ARE BEING ASKED TO SPEND A TREMENDOUS AMOUNT OF VOLUNTEER TIME SITTING AS PANEL MEMBERS.

THE DEPARTMENT OF LABOR AND THE COMPENSATION BOARD ALREADY HAVE BUDGETED IN THEIR OPERATING BUDGET FOR A SET NUMBER OF HEARING DAYS TO COVER PER DIEM AND TRAVEL FOR THE HEARINGS <sup>due to</sup> ~~FOR~~ THE CURRENT AND THE COMING FISCAL YEAR, SO THE FISCAL NOTE IS ZERO. BY ADDING THE EXTRA MEMBERS, THE SAME NUMBER OF HEARING DAYS ARE HELD, BUT THE <sup>Duties of the</sup> ~~SOUTHCENTRAL~~ BOARD'S <sup>members</sup> ~~DUTIES~~ <sup>ARE</sup> ~~WOULD BE~~ SPLIT <sup>AMONG</sup> ~~THE~~ TWO SEPARATE <sup>panels</sup> ~~BOARDS~~, SO THE ACTUAL

board's  
volunteer

*volunteer*  
TIME BOARD MEMBERS SPENT ~~WOULD~~ *will* BE CUT IN HALF.

THIS BILL PASSED THE HOUSE ON JANUARY 29, 1985 BY A VOTE OF 33 YAYS, 5 NAYS, AND 2 ABSENT. IN THE SENATE LABOR AND COMMERCE COMMITTEE THE BILL WAS AMENDED WITH A SCS TO CHANGE THE EFFECTIVE DATE FROM July 1, 1985 to AN IMMEDIATE EFFECTIVE DATE AT THE REQUEST OF THE DEPARTMENT OF LABOR. THE SCS for HB 66 THEN PASSED THE SENATE ON FEBRUARY 11 ON A VOTE OF 17 YAYS, 2 NAYS, AND 1 ABSENT.

AS CHAIRMAN OF THE HOUSE LABOR AND COMMERCE COMMITTEE WHICH ORIGINALLY HEARD HB 66, I FEEL THIS AMENDED VERSION OF HB 66 THAT HAS BEEN RETURNED TO US BY THE SENATE IS APPROPRIATE, AND RECOMMEND TO THE HOUSE MEMBERS THAT WE SUPPORT ITS PASSAGE.

M E M O R A N D U M

TO: All Members, House Labor and Commerce Committee

FROM: Committee Staff

DATE: January 24, 1985

RE: Committee Meeting, Friday, January 25, 1985; HB 66

---

On Friday, January 25, 1985, from 11:15 - 2:45 pm, in Room 102 of the Capitol Building, the House Committee on Labor and Commerce will hold hearings on HB 66:

HB 66: "An Act relating to worker's compensation," by the Rules Committee at the request of the Governor.

HB 66 expands the composition of the Alaska' Workers Compensation Board from four panels to five panels, or from 12 members to 15 members; or from 8 lay members to 10 lay members appointed by the Governor( each panel also has a Commissioner of Labor or his designee on it). It is a high Department priority.

This increase in members is to help meet the large case overload that has developed in worker's compensation cases in the Southcentral region, causing delays in hearings. This Board sits as a judge/jury for irreconcilable disputes between injured workers and insurers.

Although the general policy of the Boards and Commissions Office of the Governor is to reduce the number of boards and board members, in this case they felt the need for expansion was justified, and the Governor's transmittal letter is also their official support of this position.

HB 62: "An Act relating to the payment of prevailing wages and the payment of overtime under public construction contracts," by the Rules Committee by request of the Governor.

Clarifies the applicability of overtime compensation statutes in regards to work performed under public contracts, and imposes sanctions for failure of the contractor, thus responsibility lies with the contractor, rather than a government body, to comply and pay workers, though he still has recourse to sue the government body later.

The details of this bill are covered in the sectional analysis in your file folder.

COMMITTEE SCHEDULE

January 28 to February 1, 1985

HOUSE LABOR AND COMMERCE

Capitol 102  
465-3892

1:15-2:45pm  
MWTh

Monday, January 28, 1985

- \*Confirmation Hearings: Governor's Appointees to Boards and Commissions in the Department of Labor and the Department of Commerce and Economic Development.
- \*HB 79 "An Act relating to financial institution examinations," by Rules Committee by Request of the Governor.
- \*HB 56 "An Act relating to motor vehicle insurance," by Collins.

Wednesday, January 30, 1985

- \*HB 80 "An Act relating to Insurance Fees and Licensing", by Rules Committee by Request of the Governor.
- \*HB 77 "An Act relating to the Capital Funds required of foreign and domestic insurers," by Cato.

Thursday, January 31, 1985

- \*Confirmation Hearing: Commissioner of Commerce and Economic Development Loren Lounsbury.
- \*HB 78 "An Act relating to occupational licensing fees," by Rules Committee by Request of the Governor.  
(Statewide Teleconference.)

HB 66 FILE CONTENTS

- 1) Overview -- Committee Staff - *see memo report*
- 2) Governor's Transmittal Letter
- 3) Fiscal Note -- Dept. of Labor
- 4) Position Paper -- Dept. of Labor
- 5) Description of Worker's Compensation Board  
(from Boards and Commission's Book)

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 15, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Workers' Compensation Board. This bill establishes an additional Workers' Compensation Board panel for the south-central region to deal with the increased load of hearings held in the Anchorage area. (Currently it takes up to four months to obtain a hearing.) Additionally, the bill proposes to bring the law into conformity with actual practice by stating that the lay members of the board, but not the commissioner of labor or his designee, are subject to confirmation by the legislature. (As a department head, the commissioner is, of course, already subject to confirmation.)

This bill is a high priority for the Department of Labor, and I urge your prompt and favorable consideration of it.

Sincerely,



Bill Sheffield  
Governor

Revision Date: \_\_\_\_\_

REQUEST  
Bill/Resolution No.: HB 66  
Title: "An Act relating to workers' compensation."  
Sponsor: Rules Committee  
Requestor: Rules Committee  
Date of Request: December 4, 1984

FISCAL DETAIL  
Agency Affected: Labor  
Program Category Affected: Public Protection  
BRU, Program or Subprogram(s) Affected: Workers' Compensation

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						


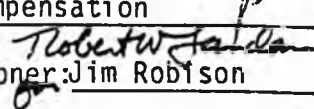
FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Jacqueiyn L. McClintock  Phone: 465-2790  
 Division: Workers' Compensation Date: 12/4/84  
 Approved by Commissioner: Jim Robison  Date: 12/4/84  
 Agency: Labor

LEG:B:5

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

Bill No. House Bill 66

Date January 21, 1985

Title "An Act relating to workers' compensation;  
and providing for an effective date."


Contact J. L. McClintock  
465-2790

The Department of Labor and the Workers' Compensation Board recommends passage of House Bill 66, providing an additional board panel for Southcentral Alaska. This increases the composition of the board from eight lay members to ten lay members.

The additional board panel is required for the Southcentral region in order to expeditiously handle the heavy board hearing load for that area. In the past, it took up to four months for parties to obtain a board hearing in the Anchorage area. By scheduling additional hearing rounds, which more than doubles the days Southcentral board members sit hearings compared to the other panels, we have been able to schedule parties for hearing within 45 to 60 days. However, the lay board members are unable to dedicate that much time to hearings because of their job commitments in the private sector. During the last two years, three Southcentral board members have been forced to resign board positions due to the expanded hearing schedule.

It is critical that an additional board panel be added in Southcentral so that the expanded hearing schedule will be met, allowing the parties to be scheduled for hearing within 45 days.

APPROVED

  
Jim Robison  
Commissioner

**POSITION PAPER/**Department of Labor

BOARD: WORKER'S COMPENSATION BOARD, ALASKA

TITLE: Alaska Worker's Compensation Board

DEPT: Department of Labor

AUTHORITY: AS 23.30.005

STATUS: ACTIVE

REQUIREMENTS: LEGISLATIVE CONFIRMATION AND FINANCIAL DISCLOSURE

PROHIBITIONS:

TERM: 3-year staggered

DESCRIPTION: 9 members appointed by Governor: includes 4 panels; 3 members for first judicial district, 3 for second/fourth, 3 for third, and 3 at-large members; each panel includes the Commissioner of the Dept. of Labor or designee as Chair, a representative of industry and a representative of labor; the latter 2 members of each panel are appointed by the Governor; the terms of management and labor members of each panel may not expire in the same year.

SPECIAL FACTS: Quorum - 2 members of panel; quasi-judicial

FUNCTION: Administers Worker's Compensation Act; sits as judge/jury for irreconcilable dispute between injured worker and insurer.

COMPENSATION: \$50/day and standard travel/per diem

MEETINGS: Regular meetings at least twice a year; hearings: Fairbanks 2 days/month, Anchorage 2 days biweekly, Juneau 2 days/month, Ketchikan, Sitka every three months; 125 days total

\*FOR FURTHER INFORMATION CONTACT: Director, Division of Worker's Compensation, Dept. of Labor, P.O. Box 1149, Juneau, AK 99802 - 465-2790

Worker's Compensation

<u>MEMBER</u>	<u>APPT</u>	<u>REAPPT</u>	<u>TERM</u>
Joe H. Butler P.O. Box 704 Anchorage 99510 At Large/Labor	83/03/15		85/07/01
Thomas W. Chandler 1217 Water Street Ketchikan 99901 1st JD/Industry	82/06/18		85/07/01
Elmer Eller 7801 Lotus Drive Anchorage 99501 3rd JD/Industry	85/01/02		85/07/01
Mary A. Pierce 2040 Sturbridge Circle Anchorage 99501 3rd JD/Industry	84/07/31		87/07/01
Delia I. Pruhs P.O. Box 1735 Fairbanks 99707 2/4th JD/Industry	83/08/19		86/07/01
David W. Richards 3112 Wild Meadow Lane Juneau 99801 1st JD/Labor	80/06/06	83/08/19	86/07/01
Jim Robison Labor Juneau 99802 Comm./Designee - Chair	82/12/06		
Jackie S. Russell P.O. Box 4157 Kenai 99611 At Large/Industry	83/03/15		85/07/01
Joe J. Thomas II 879 Vide Way Fairbanks 99701 2/4th JD/Labor	83/08/19	84/07/02	87/07/01