

ICC EVALUATION SERVICE, LLC, RULES OF PROCEDURE FOR EVALUATION REPORTS

1.0 PURPOSE

These rules set forth procedures governing ICC Evaluation Service, LLC (ICC-ES), issuance and maintenance of evaluation reports on building materials and products, methods of construction, prefabricated building components, and prefabricated buildings.

ICC-ES evaluation reports assist those enforcing model codes in determining whether a given subject complies with those codes. An evaluation report is not to be construed as representing a judgment about aesthetics or any other attributes not specifically addressed in the report, nor as an endorsement or recommendation for use of the subject of the report. Approval for use is the prerogative and responsibility of the Code Official; ICC-ES does not intend to assume, nor can ICC-ES assume, that prerogative and responsibility.

2.0 BASIS OF EVALUATION

Evaluation of data is based on one or more of the published editions of the following model codes

- International Codes
- National Codes
- Standard Codes
- Uniform Codes
- Other codes as designated by the ICC-ES president

Additionally, evaluation of data will be based on applicable ICC-ES acceptance criteria.

Where the provisions of the applicable codes prohibit a particular material, product, or method of construction, ICC-ES will not consider development of a new evaluation report and will so advise the applicant. When this occurs with regard to an existing evaluation report, the report holder will be advised that the existing evaluation report cannot be reissued.

An evaluation report advising of compliance with only the *International Residential Code for One- and Two-Family Dwellings*® (IRC) can be issued if it is specified in the report that the subject of the report can be used only in one- and two-family dwellings.

3.0 APPLICATIONS

Applications for new reports and for revisions to existing reports shall be filed on forms provided for those purposes. Applications shall be accompanied by one complete set of plans, details, calculations, and other supporting data which fully describe the subject of the

application and substantiate its performance as being in compliance with the applicable model codes, and ICC-ES acceptance criteria when these apply. The data shall also include details of the applicant's quality control program in sufficient detail to verify that the manufacturer's quality system ensures the manufactured product will not change from the product described in the original qualifying data. Fees noted in the ICC-ES fee schedule must be submitted with applications.

An application may be filed only by the entity having rights to the materials, products, or methods of construction on which an evaluation report is sought. The applicant must have legal rights to all evidence and data.

An application for a new evaluation report is considered valid for the life of the evaluation report.

Evaluation reports may be revised when requested by the report holder, or when revision is required by the applicable acceptance criteria or upon prior notice by ICC-ES. When revision is required, ICC-ES will provide prior notice and will include the date by which the report must be reissued. Whether revision is requested by the report holder or required by ICC-ES, an application must be filed for each revision.

Where products to be covered in an evaluation report include a proprietary component (a specific material that is manufactured by a party, other than the ICC-ES report applicant, that is referenced by name in the evaluation report; or a material that forms part of a fabricated assembly produced by the ICC-ES report applicant), rights to use the applicable data are required in accordance with the ICC-ES Policy on Proprietary Components. In some cases, per the Policy on Proprietary Components, the manufacturer of the proprietary component may be required to obtain an evaluation report before ICC-ES will issue a report which names the proprietary component in its text.

Any manufacturer or distributor other than the applicant that is to be listed in the evaluation report may be included as an additional listee upon submission of additional-listee forms and payment of required fees by the applicant. The applicant shall furnish ICC-ES with the name and address of each listee and shall notify ICC-ES when to add or delete a listee. Data must be submitted to verify the acceptability of each listee.

The report holder may authorize the issuing of a separate evaluation report under the name of a distributor (also known as a private label applicant). A separate evaluation report application prepared by the private label applicant and a completed Application for Private Label Listing Evaluation Report form shall be submitted. The private label evaluation report shall be inextricably linked to the

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master report holder's report (also referred to as the master report). Any relevant information in the master report, whether in conjunction with first issuance of the report or in subsequent revisions, shall be included in the private label report. The private label report shall have the same renewal date as the master report. An application for revision of the private label report shall be made when revisions relevant to the private label report are made to the master report.

Applications for new evaluation reports that are held for more than 30 days without receipt of the basic fee or supporting documentation will be returned to the applicant unless such term is extended by the ICC-ES president or his designated representative.

4.0 DATA TO BE SUBMITTED IN SUPPORT OF EVALUATION REPORTS

4.1 Applications for new reports and for revisions to existing reports shall be submitted with information as noted in Section 3.0 of these rules. Where data consists of calculations, plans, and specifications developed through the practice of architecture or engineering, the documents containing such data shall be sealed by a registered design professional.

4.2 Where data consists of reports of laboratory tests, such tests shall be performed at the expense of the applicant by an independent testing laboratory. Testing laboratories shall comply with ISO/IEC Standard 17025, General Requirements for the Competence of Testing and Calibration Laboratories. Testing laboratories must be accredited by the International Accreditation Service (IAS) or by another accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement. The scope of the laboratory's accreditation shall include the type of testing that is to be reported to ICC-ES.

Reports from nonaccredited laboratories may be accepted by ICC-ES for the processing of a specific evaluation report upon submission of evidence (including evidence from an on-site assessment conducted by an authorized ICC-ES representative) that the laboratory is an independent, qualified laboratory conforming to ISE/IEC Standard 17025 for the work in question. The applicant shall be responsible for fees and expenses associated with the review and on-site assessment of a nonaccredited laboratory as stated in the ICC-ES fee schedule.

4.3 In addition to the data noted in Sections 4.1 and 4.2, applications for recognition of prefabricated building components and prefabricated buildings must be supported by plans and specifications that include all facets of the construction, differentiating between field- and factory-installed items. The data must include, when applicable, detailed plans on wiring, plumbing, and mechanical systems, including equipment lists as well as schematics.

4.4 When periodic inspections are required, applicants shall obtain the services of a third-party inspection body that is acceptable to ICC-ES, and submit detailed quality documentation for the product or building system and the manufacturer's plant. Inspection bodies shall comply with ISO/IEC Standard 17020, General

Criteria for the Operation of Various Types of Bodies Performing Inspection. Inspection bodies must be accredited by IAS or by an accreditation body that is a partner with IAS in a mutual recognition agreement. The quality documentation shall include necessary detail to meet ICC-ES requirements. Revisions to the quality documentation must be submitted to and approved by ICC-ES in conjunction with changes to the evaluation report content.

Inspection agencies shall agree to provide unannounced inspection services in accordance with the terms of the evaluation report and the quality documentation. Costs for such inspection services shall be borne by the applicant.

4.5 The facilities designated to manufacture the products covered in the report must be inspected before the report can be issued. See Section 9.0 of these rules for information concerning inspections.

4.6 ICC-ES may require the applicant to conduct further tests and/or provide additional information considered relevant to the evaluation.

4.7 For a report requiring quality control and periodic inspections, additional listings necessitate submission of information the same as set forth above as applicable to the report holder.

5.0 ISSUANCE OF AN EVALUATION REPORT

ICC-ES will review the data submitted; establish a scope of work; work with the applicant to develop new or revised acceptance criteria (when this is necessary); request any additional information necessary to evaluate the product in accordance with the scope of work; prepare a draft report; secure applicant review; and prepare a final report for approval by the applicant and ICC-ES, provided ICC-ES requirements, as communicated in staff letters, have been met.

The applicant will be notified when the evaluation report is available to the public. The report will also be made available on the ICC-ES web site. See Section 13.0 of these rules for permitted use of evaluation reports.

6.0 FEES

6.1 General:

6.1.1 The ICC-ES basic fee covers one item as determined by ICC-ES and defined in the fee schedule. The basic fee is nonrefundable unless a refund is authorized by the president or his designated representative. Each additional item (e.g., a derivative of the basic product covered by the report; or additional code issues covered in the report) has an additional fee as set forth in the fee schedule. All fees shall be paid in U.S. funds drawn from a U.S. bank.

6.1.2 Where products covered by an evaluation report are distributed or manufactured by other companies and the products are labeled with the evaluation report number or otherwise represented as covered by the evaluation report, such other companies' names shall appear on the evaluation report as listees, and a fee will be charged for each listee as set forth in the fee schedule.

6.1.3 Where products to be covered in an evaluation report include proprietary components, additional-item and

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additional-listee fees, per the ICC-ES fee schedule, may be applicable. In some cases, per the ICC-ES Policy on Proprietary Components, the manufacturer of the proprietary component may be required to obtain an evaluation report before ICC-ES can issue a report which names the proprietary component in its text.

6.1.4 The basic fee covers the dissemination and maintenance of one page of a report via the ICC-ES web site, one item as defined in the fee schedule and recognition under one code. Fees for additional items, pages, codes, etc., will be assessed as set forth in the ICC-ES fee schedule.

6.1.5 When an applicant submits test reports from a nonaccredited laboratory, fees for reviewing the qualifications and independence of the laboratory (including the costs of an on-site assessment by IAS or an authorized ICC-ES representative) shall be applicable as set forth in the ICC-ES fee schedule.

6.1.6 The fee for a new private label evaluation report shall be as set forth in the fee schedule.

6.2 New Report Application:

6.2.1 Each new report application shall be accompanied by the basic fee set forth in the most recently published ICC-ES fee schedule. Upon completion of the evaluation, the applicant will be invoiced for any additional fees (page costs, additional listees, additional items, etc.) beyond the basic fee, with the additional fees to be determined using the then-current ICC-ES fee schedule.

6.2.2 The new evaluation report shall be valid for one year from the date of issue.

6.2.3 Applications under consideration for more than three years without the issuance of an evaluation report are subject to additional fees or to cancellation, as determined by the president or his designated representative.

6.3 Renewing Evaluation Reports:

Each year, a fee, as set forth in the fee schedule, will be assessed to extend the recognition of the evaluation report for one or two years, as determined by the report holder. Notice will be sent to the report holder a minimum of 60 days in advance of the renewal date. Payment must be received on or before the renewal date.

6.4 Revising Evaluation Reports:

6.4.1 The report holder may request revision of a report at any time after it is issued. An application and fee shall be submitted. The basic revision fee is nonrefundable unless a refund is authorized by the president or his designated representative.

6.4.2 An application for revision, and appropriate fees, must be filed when the report is required to comply with a newer edition of the codes or an acceptance criteria.

7.0 NOTIFICATION TO ICC-ES, AND REQUIRED CHANGES TO REPORTS

Report holders must notify ICC-ES prior to modifying products covered by evaluation reports (modifications would include, for example, significant changes in the

formulation, the manufacturing process, or the quality control program), or when a significant change occurs regarding the report holder (such as a company name change, change of address, change of ownership, change in legal status, or addition/deletion of a listee). When there are changes affecting the product or the report holder, and when deemed necessary by ICC-ES, the report holder must discontinue use of the report, with reference to the product in question, until the report holder has applied for and secured a report revision.

When there is a change in the conditions under which a report was originally issued (e.g., a change in code requirements, acceptance criteria and/or ICC-ES rules or policy) that affects the report, the report holder will be notified.

8.0 PRODUCT INFORMATION

Products shall be identified as specified in the applicable ICC-ES evaluation report. At a minimum, the method of identification shall include the report holder's name, the product name (if any), and the evaluation report number (ESR-xxxx). The report holder's registered trademark or registered logo is permitted in lieu of the report holder's name when a facsimile of the registered trademark or registered logo is included in the evaluation report. The evaluation report may require additional identification provisions when required by the code or the applicable ICC-ES acceptance criteria. In no case shall the evaluation report number be the only method of identification. For those products or materials that require third-party inspection, the name of the inspection agency shall be included as part of the method of identification. The ICC-ES mark and/or the evaluation report number shall be applied only to materials or products which comply with the current evaluation report.

All prefabricated buildings and components shall be identified with the evaluation report number, the ICC-ES mark, and the name and address of the manufacturer. Such identification shall be issued by and bear the name or logo of the inspection agency. Additionally, for prefabricated buildings and similar structures, the identification shall be serialized to correspond with plant inspection records and to note essential characteristics of the structure (such as design loadings, or wiring, plumbing or building limitations), and the code official shall be provided with a certificate of conformance. The certificate shall be signed by representatives of the manufacturer and the inspection agency, and shall certify that the building has been constructed and inspected in accordance with the terms of the evaluation report.

Products, prefabricated buildings and components, and similar items that have been evaluated only for conformance with the IRC, as permitted in Section 2.0, shall also be labeled "For Use in One- and Two-Family Dwellings Only," as outlined in the evaluation report.

9.0 INSPECTIONS OF MANUFACTURERS, AND EXPENSE REIMBURSEMENT

For initial applications, and applications where new products or new manufacturing facilities are being added to an existing report, evaluation reports will be issued only after an ICC-ES representative, or a representative of an accredited inspection agency, has performed a qualifying

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inspection at the facilities designated to manufacture products under the report. The purpose of the inspection is to determine whether the manufacturer's quality system has been successfully implemented, and provides assurance that, after the report is issued, the manufactured product will not change from the product described and recognized in the evaluation report. The applicant shall reimburse ICC-ES for expenses and staff time when ICC-ES or its representative performs the inspection.

As a condition of an ICC-ES evaluation report, the applicant grants the ICC-ES staff, or authorized representatives of ICC-ES, the right to conduct unannounced inspections of the manufacturing facility, to verify compliance with the evaluation report and applicable ICC-ES Rules of Procedure. For products not under an inspection program by a third-party agency, the applicant also acknowledges that the ICC-ES staff, or authorized representatives of ICC-ES, may conduct an annual inspection of the manufacturing facilities. The annual inspection is intended to verify the effectiveness of the quality system and continued compliance with the evaluation report, and is subject to fees as provided in the ICC-ES fee schedule.

When an ICC-ES representative is required to witness tests, conduct field investigations or investigate complaints related to an evaluation report, all relevant travel expenses and time shall be reimbursed by the applicant. Expenses to conduct tests related to investigations by the ICC-ES staff shall also be reimbursed by the applicant.

10.0 REVOCATION OR MODIFICATION WITH RIGHT TO A HEARING.

10.1 Any evaluation report, and the authorization to use the report number and the ICC-ES mark, may be revoked or modified for cause. "Cause" shall include: repeated failure of the material, method of construction or equipment to conform with the specifications upon which the evaluation report was based; repeated failure of the material, method of construction or equipment to perform properly although meeting the specifications upon which the evaluation report was originally based; failure to comply with any condition to the issuance of the evaluation report; any misstatement, whether intentionally or unintentionally made, in the application or in any data submitted in support thereof; failure to comply with any provision of the application form; failure to pass any test required by ICC-ES; failure to comply with new, existing, or revised acceptance criteria; or any other grounds considered as adequate cause in the judgment of ICC-ES.

10.2 Before ICC-ES revokes or modifies any evaluation report, the report holder shall be given reasonable notice and an opportunity to file an appeal pursuant to the ICC-ES Rules of Procedure for Appeals Concerning Evaluation Reports.

11.0 REVOCATION/CANCELLATION/SUSPENSION WITHOUT RIGHT TO A HEARING

11.1 An evaluation report may be canceled upon ICC-ES's receiving a written request to do so from the report holder. A file for a new evaluation report may be closed upon receipt of a written request from the applicant.

11.2 Notwithstanding anything in these rules to the contrary, any evaluation report or additional listing may be suspended for a period not to exceed 90 days, revoked, or canceled by the ICC-ES president or his designated representative, without notice or a hearing, for any of the following reasons: required fees having not been received by ICC-ES within 30 days from the date of mailing by ICC-ES of a written demand for payment; failure of the report holder or listee to maintain a current quality control program with the inspection agency noted in the evaluation report; failure to perform any test, or furnish any material or data, required by ICC-ES within the specified time limit, unless extended by the ICC-ES president or his designated representative; receipt of information that the product has been modified in violation of Section 7.0 of these rules; denial of ICC-ES access to manufacturing facilities for purposes of inspecting and evaluating quality control procedures; or failure to comply with any rule for maintaining evaluation reports as adopted or amended from time to time by ICC-ES.

11.3 Notwithstanding anything in these rules to the contrary, any evaluation report or additional listing may be suspended by action of the ICC-ES Board of Managers for such period or periods as the Board determines, without notice or a hearing, for the following reason: failure of the product, material, method of construction or equipment to perform properly or conform with the specifications upon which the evaluation report was based, either condition presenting a threat to public safety or property.

12.0 PROPRIETARY DATA

Data in any evaluation report file or application file is considered proprietary. The data is only disclosed externally by ICC-ES upon written consent of the applicant or pursuant to a subpoena issued by a court or other governmental agency of competent jurisdiction. Proprietary data may also be disclosed internally to an Evaluation Committee member; a staff member of ICC-ES or ICC, or an authorized representative of ICC-ES or ICC having a legitimate interest therein; any member of the ICC-ES Board of Managers; or any duly identified representative of any testing agency or like organization that initially prepared the data, or a duly authorized representative thereof stated to be an employee or principal thereof having a legitimate interest therein. Additionally, upon the written consent of the applicant, any Governmental Member of ICC may be granted access in the interest of public safety or preservation of property as it relates to enforcement of building laws.

From time to time, ICC-ES records and files are audited by national and international bodies on a random basis to establish conformance with international accreditation and conformity assessment standards. It is understood that, by executing an evaluation report application, report holders grant ICC-ES the authority to allow such access.

13.0 PERMITTED USE OF EVALUATION REPORTS AND THE ICC-ES NAME, MARK AND REPORT NUMBER

13.1 Upon completion of a new evaluation report, or a revision to an existing evaluation report, the report holder will be provided an authorization letter from ICC-ES that covers the use of the ICC-ES name and mark, the ICC-ES evaluation report number and the evaluation report itself,

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as well as guidance on communications associated with the evaluation report. If it is determined that identification is being applied to materials or products that do not comply with the current evaluation report, applied before authorization or applied after a report has been closed, ICC-ES will immediately disseminate a notice of violation of the ICC-ES Rules of Procedure and take any and all actions necessary to secure compliance.

13.2 No listee shall use the ICC-ES evaluation report number until authorized by ICC-ES.

13.3 The then-current evaluation report, as provided to the report holder by ICC-ES and also available on the ICC-ES web site, may be reproduced in its entirety by the report holder in the report holder's literature, advertising, or promotional materials. No reference to ICC-ES, the evaluation report, or the ICC-ES mark shall be included with such reproduction in a manner which could be misleading.

13.4 In lieu of reproducing the entire evaluation report in literature, advertising, or promotional materials, the report holder may use references and statements such as: "See ICC-ES Evaluation Report No. _____ (insert current number) at www.icc-es.org." It is the report holder's responsibility not to misrepresent the evaluation report in any way, and to secure ICC-ES approval in advance whenever there is a question about the use of the ICC-ES name and/or ICC-ES evaluation report. Report holders are expressly prohibited from using the ICC-ES name, mark or report number to claim or imply product recognition beyond the recognition specified in the evaluation report. Report holders are also expressly prohibited from using, in advertising, promotional, and informational materials, any language that would likely mislead the public about their evaluation reports. ICC-ES reserves to itself the right to interpret what would constitute misleading language.

13.5 The following provisions govern the use of the ICC-ES mark on products and in advertising, promotional, and informational materials:

13.5.1 Use of the ICC-ES mark is prohibited in any manner and in any media without authorization from ICC-ES. Use of or reference to any evaluation report after cancellation is also prohibited.

13.5.2 The ICC-ES mark may be used *only* on or in connection with products, components, methods, and materials that are covered in currently valid evaluation reports. Use of the mark is not a replacement or substitute

for product identification provisions in the relevant evaluation report. In no circumstances may the mark be used to imply ICC-ES approval of aesthetics or any other attributes not specifically addressed in the report.

13.5.3 The use of the ICC-ES mark must include the relevant evaluation report number.

13.5.4 The mark may not be altered in any way, although it may be enlarged or reduced. Black is the basic color of the mark. Other colors may be used only when authorized in writing by ICC-ES.

13.5.5 It is the responsibility of the mark user not to misrepresent in any way the status, conditions, or terms of the relevant ICC-ES evaluation report. It is also the user's responsibility to secure ICC-ES approval in advance whenever there is a question about how the ICC-ES mark and/or name is to be used.

13.6 The above does not excuse compliance with any ICC-ES requirement as a condition of securing or maintaining an evaluation report requiring identification, reference to standards or inspection, or other information to be affixed to or labeled upon products.

13.7 Violation of these rules, regarding the use of the ICC-ES name and mark, reports and report numbers, as determined by ICC-ES, must cease immediately upon notification of the violator by ICC-ES. Failure to respond to the notification may lead to suspension or revocation of the report under these rules. ICC-ES also reserves the right to note violations in the public notices and publications of ICC-ES and its parent company, ICC, and on the ICC-ES web site.

14.0 COMPLAINT PRODECURE

All complaints related to an evaluation report should be submitted in writing to the attention of the ICC-ES Quality Systems Administrator. The report holder will be notified of the complaint and, if a response is needed to address the complaint, ICC-ES will so inform the report holder. After notice, the report holder will have 30 calendar days in which to respond, or the evaluation report in question will be subject to cancellation.

15.0 APPEALS

For details on appeals, see the ICC-ES Rules of Procedure for Appeals Concerning Evaluation Reports.■

Effective January 12, 2012