



ICC EVALUATION SERVICE, INC., RULES OF PROCEDURE FOR EVALUATION REPORTS

1.0 PURPOSE

The purpose of these rules is to set forth procedures governing ICC Evaluation Service, Inc. (ICC-ES), issuance and maintenance of evaluation reports on building materials and products, methods of construction, prefabricated building components, and prefabricated buildings. For procedures related to the issuance and maintenance of ICC-ES legacy reports, see the ICC Evaluation Service, Inc., Rules of Procedure for Legacy Reports.

The main purpose of ICC-ES evaluation reports is to assist those enforcing model codes to determine whether a given subject complies with those codes. An evaluation report is not to be construed as representing a judgement 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 of the subject of the report 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 on the basis of the most current published edition of the following model codes as of January 1 of each year:

- 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 the most current of any applicable ICC-ES acceptance criteria.¹

Where the provisions of the International 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. Where the National Codes, the Standard Codes, and/or the Uniform Codes prohibit a particular alternate material, product, or method of construction, ICC-ES will not consider development of a new evaluation report which references such code(s) and will so advise the applicant. When this occurs with regard to an existing evaluation report, the report holder will be advised that an existing evaluation report referencing those codes 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 changes to existing reports shall be filed on forms provided for that purpose. 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 evaluation guidelines and/or 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.

Where products to be covered by an evaluation report include a proprietary component (a specific material that is manufactured by someone other than the ICC-ES report applicant and that is referenced by name in the evaluation report, or that forms a part of a fabricated assembly produced by the ICC-ES report applicant), data is 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 in the report 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 the applicant wishes 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

¹See Section 4.0 of the ICC Evaluation Service, Inc., Rules of Procedure for the Evaluation Committee for additional information.

evaluation report shall be inextricably linked to the 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 issue date as the master report. An application for interim revision of the private label report shall be made when revisions relevant to the private label report are made to the master report through an application for interim revision.

Applications for new evaluation reports that are held for more than 30 days without receipt of the basic fee or supporting documentation are subject to being 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 changes 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 an 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 IAS staff or authorized ICC-ES representatives) that the laboratory is an independent, qualified laboratory conforming to ISO/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 See Section 9.0 of these rules for information concerning inspections, including provisions for initial inspections before a report can be issued, of the facilities designated to manufacture the product(s) covered in the report.

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; work with the applicant to develop new or revised evaluation guidelines and/or acceptance criteria (when this is necessary); request any additional information necessary to evaluate the product; 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 and any listees 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. 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 in U.S. funds drawn from a U.S. bank.

6.1.2 Where products to be covered by an evaluation report are distributed or manufactured by companies other than the applicant, 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 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 will issue a report which names the proprietary component in its text.

6.1.4 The basic fee covers the dissemination of one page of a report via the ICC-ES web site, and maintenance of that page. Each additional page shall require payment of a fee 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 the basic fee for a one-year re-examination without change. The fee for re-examination shall be the basic fee for either a one- or two-year re-examination without change as determined by the application for re-examination of the master report.

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. This fee is not refundable unless a refund is authorized by the president or his designated representative. 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.

6.2.2 The new evaluation report shall be valid for one year from the date of issue. An application for re-examination shall be filed prior to the expiration date of the report if continued recognition of the subject product is desired.

6.2.3 Applications that are processed 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 Re-examination Application:

6.3.1 Reports need to be re-examined one year after first issued and then every one or two years thereafter. Each application for re-examination shall be accompanied by applicable re-examination fees as set forth in the ICC-ES fee schedule (fees beyond the basic fee being determined based on the contents of the existing report, unless more accurate information is available at the time the re-examination application is filed). Upon completion of the evaluation, applicable fees beyond those already paid will be determined, and the applicant will be invoiced accordingly (or credited for any fees paid in excess of those applicable to the revised report).

6.3.2 If re-examination of an evaluation report is not completed by the report's date of expiration, a monthly fee equal to $\frac{1}{12}$ of the total fee for a one-year re-examination, based on the "without change" fee schedule, shall be charged to keep the report valid for the edition(s) of the code(s) referenced in the report, until the report is reissued or closed. Evaluation reports are held for further study while ICC-ES is reviewing submitted data, and/or verifying compliance with current codes and evaluation guidelines and acceptance criteria.

6.3.3 At the time of re-examination, the report holder must certify that any proprietary components named in the report have not been modified; that applicable third-party listings of proprietary components remain in effect; that the manner of installing the components remains unchanged; and that the components meet requirements of any updated acceptance criteria or evaluation guidelines.

6.3.4 The applicant shall, at the time of re-examination, have supplied to ICC-ES, on a yearly basis, a completed Quality Control Declaration.

6.3.5 Report holders may file for a re-examination out of

schedule at any time, to revise their evaluation report, subject to payment of fees as required for re-examination. In such cases, a credit will be extended for the unused portion of fees previously paid. The credit will be a proration of 45 percent of the previously paid fees based on the months unused when the report is reissued with a new date.

6.4 Interim Revision Application:

The report holder may request interim revisions to a report at any time after it is issued and before it expires. The interim revision process is not intended for significant changes to a report that are more typically done at the time of re-examination or as a re-examination out of schedule as covered in Section 6.3. An application and fees shall be submitted. ICC-ES staff reserves the right to refuse an application for interim revision based on the extent of the revisions requested and/or lack of sufficient substantiating data. Interim revisions shall not extend the expiration date of the existing report or eliminate the need to have the report re-examined before the expiration date of the report. Upon completion of the interim revision, the applicant will be invoiced for fees as covered in the fee schedule. If an interim revision is not completed by the time an existing report is due for re-examination, the interim revision shall be considered part of the re-examination process, and the provisions of Section 6.3 that cover re-examination shall apply.

6.5 Fee Adjustments: The ICC-ES president may modify fees when justification for such modifications is presented by the applicant and the ICC-ES president determines that the modifications are warranted.

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, 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 IDENTIFICATION

Products shall be identified as specified in the applicable ICC-ES evaluation report. At a minimum, the method of identification shall include the manufacturer's name, the product name (if any), and the evaluation report number (ESR-xxxx). The manufacturer's registered trademark or registered logo is permitted in lieu of the manufacturer'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 structures 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 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.

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 Directors 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 may be disclosed 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 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 Directors; 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, 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, a re-examination or an interim 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, 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, such language as "ICC-ES approved," "ICC-ES certified," "code approved," or "code accepted," which implies that recognition of their products in an ICC-ES evaluation report is an acceptable substitute for review and approval by the local code official.

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 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 PROCEDURE

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 July 30, 2007