

ICC EVALUATION SERVICE, LLC, RULES OF PROCEDURE FOR MARKETING CLAIM VERIFICATION REPORTS

1.0 PURPOSE

The purpose of these rules is to set forth procedures governing ICC Evaluation Service, LLC (ICC-ES), Marketing Claim Verification Reports on materials and products, methods of construction and prefabricated building components, hereinafter called "products". The purpose of these reports is to provide third-party verification of an applicant's marketing claims.

An ICC-ES Marketing Claim Verification Report is not to be construed as representing a judgment about codes or standards conformity, aesthetics or any other attributes not specifically addressed in the report, nor as an endorsement or recommendation for the use of the product referenced in the report. Use of the subject of the report is the prerogative and responsibility of the user.

2.0 BASIS OF VERIFICATION

Evaluation of data is on the basis of current published requirements specified by ICC-ES at the time of review.

3.0 APPLICATIONS

General: Applications for a report are limited to products whose marketing claims can be verified in accordance with published ICC-ES marketing claim verification guidelines.

Applications shall be filed on forms provided for that purpose.

Applications shall be accompanied by one complete set of supporting data which fully describe the subject of the application, substantiate its marketing claim(s) and comply with ICC-ES verification guidelines. This includes quality control documentation. The data may be in hard copy or electronic form.

Fees as set forth in Section 7.0 of these rules shall be submitted with applications.

An application may be filed only by an entity having rights to the product for which a report is sought.

Applications for a report that are held for more than 30 days without receipt of the basic fee or supporting documentation are subject to cancellation unless such term is extended by the ICC-ES president or his designated representative.

4.0 DATA TO BE SUBMITTED IN SUPPORT OF MARKETING CLAIM VERIFICATION REPORTS

4.1 All applications 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.

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 be accredited by an approved body under ISO/IEC Standard 17025, General Requirements for the Competence of Testing and Calibration Laboratories. The scope of the laboratory's accreditation shall include the type of testing that is to be reported to ICC-ES. When the type of testing performed is not specifically recognized in the scope of the laboratory's accreditation, documentation shall be provided to demonstrate that the laboratory has the capabilities necessary to perform such testing.

5.0 INSPECTIONS OF MANUFACTURERS

Qualifying inspections are required for new applications and for additional manufacturing facilities being added to an existing report. The qualifying inspection shall be conducted by ICC-ES or its designated representative. As an alternative, at the discretion of ICC-ES, the applicant may retain a third-party inspection body that has a contractual relationship with ICC-ES and that is accredited by a signatory to the ILAC MRA as meeting the provisions of ISO/IEC Standard 17020, *General Criteria for the Operation of Various Types of Bodies Performing Inspection*. The purpose of the qualifying inspection is to determine whether the manufacturer's quality system has been successfully implemented and/or to verify that the manufactured product is the same as the product to be covered in the report. As a condition of maintaining an ICC-ES marketing claim verification report, the report holder shall grant ICC-ES or its designated representative the right to conduct, at a minimum, one annual surveillance inspection of manufacturing facilities, to verify compliance with the requirements.

ICC-ES, its designated representative, or the third-party inspection body shall review the following elements at the manufacturing facilities, as applicable: effectiveness of corrective actions taken in response to nonconformances found during previous inspections; changes in the quality system that may affect covered products; any changes in processes or materials; complaint records regarding covered products; markings on the product and in product literature; raw materials; and equipment calibration.

ICC-ES or its designated representative shall make every effort to visit manufacturing locations during normal business hours. At the manufacturing facility, the report holder shall assign an appropriate representative to accompany the ICC-ES inspector or ICC-ES' designated representative, to grant access to applicable manufacturing and storage locations, to review applicable

records and documents, to select samples randomly for testing, and to accommodate the inspector with any other related inspection services as necessary. If the inspector selects samples for testing by an accredited laboratory, the report holder shall authorize the laboratory to send a copy of the test results directly to ICC-ES for review.

In general, the decision to choose samples for testing by an accredited laboratory is at the discretion of the inspector and may depend on the availability of the covered products during the inspection. However, sampling and testing may be mandatory in the event of the following: modification of the covered products as defined in Section 8.0; complaints or legal actions pending related to the continued compliance of the covered products; the standard or the code governing the covered products having undergone a revision; or the applicable Rules of Procedure or ICC-ES policies having changed in such a way as to require retesting.

The report holder shall agree that if such testing shows the product failing to meet the requirements of the specified testing standard, ICC-ES may remove the product from the report.

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

6.0 ISSUANCE OF A REPORT

ICC-ES will review the data submitted; work with the applicant in obtaining additional data as necessary to verify the product marketing claim; prepare a draft report; secure applicant review; and prepare a final report for comment by the applicant when comments in staff letters have been resolved.

The applicant will be notified when the report is available to the public. The report will also be made available on the ICC-ES web site. See Section 14.0 of these rules for permitted use of evaluation reports.

7.0 FEES

7.1 General:

7.1.1 The fees for a report are set forth in the ICC Evaluation Service, LLC, Marketing Claim Verification Fee Schedule (hereinafter referred to as "fee schedule"). All fees shall be in U.S. funds drawn from a U.S. bank.

7.1.2 The basic fee covers the posting of a report to the ICC-ES web site, and maintenance of that report.

7.2 New Report Application:

7.2.1 Each new report application shall be accompanied by the basic fee set forth in the current published fee schedule. This fee is nonrefundable unless authorized by the president or his designated representative. Upon completion of the evaluation, the applicant will be invoiced for any additional fees (additional products, etc.) beyond the basic fee.

7.2.2 The new ICC-ES Marketing Claim Verification Report shall be valid for one year.

7.2.3 Applications that are processed for more than three years without the issuance of a report are subject to additional fees or to cancellation, as determined by the president or his designated representative.

7.3 Renewal:

7.3.1 Reports shall be renewed every year. An application for renewal shall be accompanied by applicable renewal fees as set forth in the fee schedule.

7.3.2 The report holder will be notified when the report is available to the public. The report will also be made available on the ICC-ES web site. See Section 14.0 of these rules for permitted use of reports.

8.0 NOTIFICATION TO ICC-ES AND REQUIRED CHANGES TO REPORTS

Report holders must notify ICC-ES prior to modifying products covered by an ICC-ES Marketing Claim Verification Report. Modifications include changes in the formulation, manufacturing process, or quality control program. They also include significant changes regarding the report holder, such as a company name change, change of address, change of ownership, or change in legal status.

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

9.0 PRODUCT IDENTIFICATION

Products shall be identified as specified in the applicable report. The identification may be placed on product packaging in lieu of the product, when specifically approved by ICC-ES. As a minimum, the method of identification shall include the manufacturer's name and product name (if any). 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 report. The report may specify additional identification provisions when required by applicable ICC-ES guidelines. The ICC-ES Marketing Claim Verified mark of conformity (mark) shall be applied only to materials or products which comply with the current report.

The ICC-ES Marketing Claim Verification Report number (ESV-XXXX-B for building products or ESV-XXXX-P for PMG products) may be placed on the product described in the report, or on the product's packaging or installation instructions.

10.0 INSPECTIONS OF MANUFACTURERS, AND EXPENSE REIMBURSEMENT

See Section 9.0 of the ICC Evaluation Service, LLC, Rules of Procedure for Evaluation Reports.

11.0 REVOCATION OR MODIFICATION WITH RIGHT TO A HEARING

See Section 10.0 of the ICC Evaluation Service, LLC, Rules of Procedure for Evaluation Reports.

12.0 REVOCATION/CANCELLATION/SUSPENSION WITHOUT RIGHT TO A HEARING

See Section 11.0 of the ICC Evaluation Service, LLC, Rules of Procedure for Evaluation Reports.

13.0 PROPRIETARY DATA

See Section 12.0 of the ICC Evaluation Service, LLC, Rules of Procedure for Evaluation Reports. Contractors engaged by ICC-ES may have access to documentation submitted to ICC-ES when ICC-ES determines that no

conflict of interest exists.

14.0 PERMITTED USE OF AN ICC-ES MARKETING CLAIM VERIFICATION REPORT AND THE ICC-ES NAME, MARKETING CLAIM VERIFIED MARK OF CONFORMITY AND REPORT NUMBER

14.1 Upon completion of a report, the report holder will be provided an authorization letter from ICC-ES that addresses the use of the ICC-ES name and Marketing Claim Verified mark, the ICC-ES Marketing Claim Verification Report number and the report itself, as well as guidance on communications associated with the report. If it is determined that identification is being applied to materials or products that do not comply with the current 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 necessary action to secure compliance.

14.2 No report holder shall use the ICC-ES Marketing Claim Verified mark or report number until authorized by ICC-ES.

14.3 The current report, as published 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 ICC-ES Marketing Claim Verification Report, or the ICC-ES Marketing Claim Verified mark shall be included with such reproduction in a manner which could be misleading.

14.4 In lieu of reproducing the entire ICC-ES Marketing Claim Verification Report in literature, advertising, or promotional materials, the report holder may use references and statements such as: "See ICC-ES ESV-XXXX-B or ESV-XXXX-P (insert current number) at www.icc-es.org." It is the report holder's responsibility not to misrepresent the ICC-ES Marketing Claim Verification Report in any way, and to secure prior ICC-ES approval when there is a question concerning the use of the ICC-ES name and/or report. Report holders are expressly prohibited from using the ICC-ES name,

Marketing Claim Verified mark or report number to claim or imply product recognition beyond the verification specified in the ICC-ES Marketing Claim Verification 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 verification of their products in an ICC-ES Marketing Claim Verification Report is an acceptable substitute for review and approval by the local code official.

14.5 Violation of these rules, regarding use of the ICC-ES name and Marketing Claim Verified mark, reports and report numbers, as determined by ICC-ES, must cease immediately upon notification of the violation 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.

15.0 COMPLAINT PROCEDURE

Complaints related to a report shall be in accordance with Section 14.0 of the ICC Evaluation Service, LLC, Rules of Procedure for Evaluation Reports.

16.0 APPEALS

See ICC-ES Rules of Procedure for Appeals Concerning Evaluation Reports.■

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