

ICC-ES PMG Rules of Procedure for Product Listings–Mexico

1.0 PURPOSE

The purpose of these rules is to set forth procedures for the ICC Evaluation Service, LLC (ICC-ES), listing program for plumbing, mechanical, and fuel gas (PMG) products.

The main purpose of ICC-ES listing programs is to assist those enforcing model codes to determine whether a given subject complies with applicable standards and applicable codes. A listing is not to be construed as representing a judgment about aesthetics or any other attributes not specifically addressed in the listing, nor as an endorsement, assurance, or guarantee, or recommendation for use of the subject of the listing. Approval of use of a listed product is by the code official.

2.0 DEFINITION

A “listee” is a person or organization having a product or products listed by ICC-ES, and who is identified in the Application for Listing.

3.0 BASIS OF EVALUATION

Evaluation of data is based on applicable Official Mexican Standards (NOMs) or Mexican Standards (NMXs).

ICC-ES will issue listings or renew existing listings to the applicable Official Mexican Standard (NOM) or applicable Mexican Standard (NMX) unless it is determined that the product does not meet the performance requirements of the applicable Mexican standard or falls outside its scope of applicability.

4.0 APPLICATIONS

Applications for new listings or renewals, and for changes to existing listings, shall be filed on forms provided for that purpose. The applicant must have the rights to the materials, products, or methods of construction on which a listing is sought and must have the legal rights to all evidence and data. Applications for new listings that are held for more than 30 days without receipt of the application/evaluation fee or supporting documentation are subject to cancellation unless such term is extended by the ICC-ES president or his designated representative.

5.0 DATA TO BE SUBMITTED IN SUPPORT OF LISTINGS

5.1 General

Applications for new listings and for changes to existing listings shall be accompanied by one complete set of relevant test reports, drawings, installation instructions, calculations, and/or other supporting data which fully describe the subject of the application and substantiate its

performance as being in compliance with the applicable Official Mexican Standard (NOM) or applicable Mexican Standard (NMX). In cases where, in addition to testing, evaluation of product samples is required by the applicable Official Mexican Standard (NOM) or applicable Standard (NMX), product samples shall be submitted to the ICC-ES PMG technical staff for evaluation.

Qualifying inspections are used to verify that the applicant's quality system ensures the listed product will not change from the product described in the original qualifying data. ICC-ES has the option to request that quality documentation be provided.

5.2 Test Reports

Laboratory tests shall be performed at the expense of the applicant by a testing laboratory complying with NMX-EC-17025 / ISO/IEC Standard 17025, *General Requirements for the Competence of Testing and Calibration Laboratories*. Testing laboratories must be accredited by the entidad mexicana de acreditación, a.c. (ema), The scope of the laboratory's accreditation shall include the type of testing that is to be reported to ICC-ES. Testing laboratories providing data for listings to Official Mexican Standards (NOMs) shall also be approved by CONAGUA; and evidence of CONAGUA approval must be submitted. Laboratory tests from laboratories not approved by CONAGUA cannot be considered.

5.3 Inspections at Manufacturing Facilities

See Section 10.0 of these rules for information concerning inspections, including provisions for qualifying inspections before a listing can be issued, and for follow-up inspections, of the facilities designated to manufacture the products covered in the listing.

5.4 Additional Information

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

6.0 ISSUANCE OF A LISTING

6.1 General:

6.1.1 ICC-ES will review the data submitted; request additional information necessary to evaluate the product; and prepare a final listing, provided ICC-ES requirements as communicated in staff letters have been satisfied.

6.1.2 The applicant and any listees will be notified when the listing is issued. The listing will also be made

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available on the ICC-ES website. See Section 14.0 of these rules for permitted uses of any listing.

6.2 Changes to Listing Requirements:

In the event of significant changes to the applicable standards, rules, or policies, affected listees will be notified and will be given a grace period to show compliance with the changes, but no more than a year from the time the changes are adopted by ICC-ES unless this period is extended by the president or his designated representative.

7.0 FEES

7.1 General:

The ICC-ES application fee covers one category of products (covered by the same standard). A separate application is required for products that are covered by other standards. The listing fee gives the listee the right to use the ICC-ES PMG listing mark on the product after the listing is granted. All other fees are set forth in the ICC-ES fee schedule. All fees shall be paid in U.S. funds drawn from a U.S. bank.

7.2 New Listing Application:

7.2.1 Each new application shall be accompanied by the application fee set forth in the most recently published ICC-ES PMG-Mexico fee schedule for Product Listings. This fee is not refundable unless authorized by the president or his designated representative. Upon completion of the evaluation, the applicant will be invoiced for additional fees, as described in the fee schedule.

7.2.2 The new listing shall be valid for the term according to the applicable certification type from the date of issue. An application for renewal shall be filed prior to the expiration date of the listing if continued recognition is desired.

7.2.3 Applications that are open for one year without the issuance of a listing are subject to additional fees or to cancellation, as determined by the president or his designated representative.

7.3 Renewal:

7.3.1 Listings shall be renewed based on the applicable certification type. An application for renewal shall be accompanied by applicable renewal fees as set forth in the ICC-ES fee schedule for Product Listings.

7.4 Application to Revise Listings:

A listee may request to revise a listing at any time during the renewal period or when the listing is active. Revisions may include technical or editorial changes to a listing, and/or adding models to a listing or deleting models. Revisions shall not extend the expiration date of the existing listing. Fees for revisions are as set forth in the fee schedule.

7.5 Inspection: The fees for qualifying, surveillance and renewal inspection activities, as defined in Section 10.0, are as set forth in the fee schedule. The applicant shall reimburse ICC-ES or its representative for all

expenses related to qualifying inspection activities. If the inspector is unable to gain entry to a manufacturing facility covered by the listing, the listee shall agree to pay ICC-ES the inspection fee as shown in the ICC-ES fee schedule. The listee is responsible for covering the costs associated with shipping selected samples to an accredited laboratory as part of a surveillance and renewal inspections, and having the samples tested.

8.0 MODIFICATION OF LISTED PRODUCTS

Listees must notify ICC-ES prior to modifying products covered by the listing. Product modifications include significant changes in the manufacturing process, change in manufacturer, change in raw material specifications, or significant changes to the quality control program. Listees shall also notify ICC-ES when significant changes occur regarding the listee. Significant changes include company name change, change of address, change of ownership, or change in legal status. When deemed necessary by ICC-ES, the listee must discontinue use of the listing until a listing revision addressing the changes has been issued.

9.0 PRODUCT IDENTIFICATION

9.1 Listee's Name, Registered Trademark, or Registered Logo:

The listed products shall be permanently identified with the listee's name. The listee's registered trademark or registered logo is permitted in lieu of the listee's name when a facsimile of the registered trademark or registered logo is included in the listing. The listing shall include additional identification provisions when required by the code, the applicable standard or the applicable ICC-ES listing criteria.

9.2 PMG Listing Mark:

The listee shall mark the listed product with the ICC-ES PMG listing mark. If the listee reasonably believes that such marking will affect the aesthetic appearance of the listed product, ICC-ES will consider issuing a written permit allowing the listee (1) to affix the PMG listing mark to be applied on other items acceptable to ICC-ES, such as on packaging or installation instructions, and/or (2) to affix the PMG listing mark by means of a label or sticker, acceptable to ICC-ES, to be placed at a location or on an area of the listed product which is not exposed or visible to the consumer.

ICC-ES will not consider any product, which would otherwise be a listed product, to be listed if it does not somehow bear the ICC-ES PMG listing mark.

9.3 Listing Number:

The ICC-ES listing number may be placed on the listed product, or on the product's packaging or installation instructions.

10.0 INSPECTIONS OF MANUFACTURERS

Qualifying inspections are required for new listing applications and for additional manufacturing facilities being added to an existing listing. The qualifying inspection will be conducted by ICC-ES or its designated

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representative. As an alternative, at the discretion of ICC-ES, the listee 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 presented for recognition. As a condition of maintaining an ICC-ES listing, the listee shall grant ICC-ES or its designated representative the right to conduct surveillance and renewal inspections of manufacturing facilities, to verify compliance with the listing requirements, in accordance with the granted certification type.

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 listed products; any changes in processes or materials; complaint records regarding listed 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 listee shall assign an appropriate representative to accompany the ICC-ES inspector or ICC-ES's 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 a laboratory meeting the requirements noted in Section 5.2, the listee shall authorize the laboratory to send a copy of the test results directly to ICC-ES headquarters for review.

In general, the decision to choose samples for testing by a laboratory meeting the requirements noted in Section 5.2, is at the discretion of the inspector and may depend on the availability of the listed products during the inspection. However, sampling and testing may be mandatory in the event of the following: modification of the listed products as defined in Section 8.0; complaints or legal actions pending related to the compliance of the listed products; the standard governing the listed products having undergone a revision; or the these Rules of Procedure or ICC-ES policies having changed in such a way as to require retesting. Even in the absence of such circumstances, however, there must be retesting of listed products, to show their continued compliance with applicable standards, at least once every five years following initial issuance of the listing.

The listee shall agree that if such testing shows the product failing to meet the requirements of the applicable Mexican standard, ICC-ES may remove the product from the listing.

11.0 REVOCATION OR MODIFICATION OF LISTINGS WITH RIGHT TO A HEARING

11.1 Any listing, and the authorization to use the ICC-ES PMG listing mark, may be revoked or modified for cause. "Cause" shall include:

- a. failure of the product during testing or inspection to conform with the Official Mexican Standard (NOM) or the Mexican Standard (NMX), as applicable;
- b. failure to comply with any characteristics of and/or conditions to the issuance of the listing;
- c. making changes to the product without first obtaining approval by ICC-ES;
- d. any misstatement, whether intentionally or unintentionally made, in the listing application or in any data submitted in support thereof;
- e. failure to comply with any provision of the application form;
- f. failure to pass any test required by ICC-ES; or any other grounds considered as adequate cause in the judgment of ICC-ES.

11.2 Before ICC-ES revokes or modifies any listing, the listee shall be given reasonable notice and an opportunity to file an appeal pursuant to the ICC-ES Rules of Procedure for Appeals Concerning Product Listings.

12.0 REVOCATION/CANCELLATION/SUSPENSION OF LISTINGS WITHOUT RIGHT TO A HEARING

12.1 A listing may be canceled upon ICC-ES's receiving a written request to do so from the listee. A file for a new listing may be closed upon receipt of a written request from the applicant.

12.2 Notwithstanding anything in these rules to the contrary, any 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:

- a. 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;
- b. Failure of the listee to maintain a current quality control program;
- c. Failure to perform any test, or furnish any material or data, required by ICC-ES within the specified time limit;
- d. Failure of the listee to correct nonconformances and/or submit a plan for correction within 15 business days from the date of inspection or testing.
- d. Receipt of information that the product has been modified in violation of Section 8.0 of these rules;
- e. Denial of ICC-ES access to manufacturing facilities for purposes of inspecting and evaluating quality control procedures; or
- f. Failure to comply with any rule for maintaining listings as adopted or amended from time to time by ICC-ES.

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12.3 Notwithstanding anything in these rules to the contrary, any 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 listing was based, either condition presenting a threat to public safety or property.

13.0 PROPRIETARY DATA

Data in any listing file or application file is considered proprietary. The data may be disclosed by ICC-ES upon written consent of the applicant or, with notice to the applicant, pursuant to a subpoena issued by a court or other governmental agency of competent jurisdiction. Proprietary data may also be disclosed to a staff member of ICC-ES or the International Code Council (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 and other applicable 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 a listing application, listees grant ICC-ES the authority to allow such access.

14.0 PERMITTED USE OF LISTINGS AND THE ICC-ES NAME AND PMG LISTING MARK

14.1 Upon completion of a new listing, a renewal or an interim revision to an existing listing, the listee will be provided with an authorization letter from ICC-ES that covers the use of the ICC-ES name and the listing itself, as well as guidance on communications associated with the listing. If it is determined that identification is being applied to materials or products that do not comply with the current listing, is being applied before authorization or applied after a listing has been closed, ICC-ES will immediately disseminate a notice of violation of these ICC-ES PMG Rules of Procedure and take any and all actions necessary to secure compliance with the rules.

14.2 No listee shall use the ICC-ES PMG listing mark until authorized by ICC-ES.

14.3 The then-current listing as provided to the listee by ICC-ES and also available on the ICC-ES website, may be reproduced in its entirety by the listee in the listee's literature, advertising, or promotional materials. No reference to ICC-ES, the listing, or the ICC-ES PMG listing mark shall be included with such reproduction in a manner which could be misleading.

14.4 In lieu of reproducing the entire listing in literature, advertising, or promotional materials, the listee may use references and statements such as: "See ICC-ES Listing No. _____ (insert current number) at www.icc-es.org\pmg." It is the listee's responsibility not to misrepresent the listing 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 listing. Listees are expressly prohibited from using the ICC-ES name or PMG listing mark to claim or imply product recognition beyond the recognition specified in the listing. Listees are also expressly prohibited from using, in advertising, promotional, and informational materials, any language that would likely mislead the public about their listings. ICC-ES reserves to itself the right to interpret what would constitute misleading language.

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

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

14.5.2 The ICC-ES PMG listing mark may be used *only* on or in connection with products, components, methods, and materials that are covered in currently valid listings. Use of the PMG listing mark is not a replacement or substitute for product identification provisions in the relevant listing. In no circumstances may the PMG listing mark be used to imply ICC-ES approval of aesthetics or any other attributes not specifically addressed in the listing.

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

14.5.4 Listees may use their listings only to indicate that the products in question conform with the standards specified. When no clarification is needed regarding the standard under which the product has been listed (as when the product has been listed as complying with only one standard applicable to the product), the ICC-ES listing mark alone, without additional clarification, may be sufficient for the product. However, to avoid misunderstandings, ICC-ES may require additional markings, to supplement the listing mark and clarify its meaning, wherever the possibility of confusion exists. [For example, ICC-ES may require the relevant standard number(s) to accompany the listing mark; or the listed aspects of the product ("Gas Safety"; "Mechanical") may be noted in conjunction with the listing mark.] ICC-ES will inform the listee if there are such special requirements for display of the listing mark on product packaging or in product literature.

14.6 It is the responsibility of the listee not to misrepresent in any way the status, conditions, or terms of the relevant ICC-ES listing, and not to use the listing in such a manner as to bring ICC-ES into disrepute. It is also

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the listee's responsibility to secure ICC-ES approval in advance whenever there is a question about how the ICC-ES PMG listing mark and/or name is to be used.

14.7 In the event a listee seeks cancellation of a listing, or informs ICC-ES that production at a recognized manufacturing facility has ceased or is being transferred to a different facility, then the listee shall (a) promptly provide ICC-ES with written confirmation that manufacturing of products bearing the ICC-ES certification mark has ceased at the previously recognized facility; and (b) permit ICC-ES, upon request, to send a representative to inspect the facility in order to verify that the manufacturing of products bearing the mark has ceased.

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

14.9 Violation of these rules, regarding use of the ICC-ES name and PMG listing mark, 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 listing 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 website.

15.0 COMPLAINT PROCEDURE

All complaints related to a listing should be submitted in writing to the attention of the ICC-ES Quality System Director. The listee will be notified of the complaint and, if a response is needed to address the complaint, ICC-ES will so inform the listee. After notice, the listee will have 30 calendar days in which to respond, or the listing in question will be subject to cancellation. Upon resolution of the complaint, ICC-ES will notify the complainant within no more than 10 working days.

16.0 APPEALS

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

Effective: July 13, 2018