



AMERICAN PUBLIC GAS ASSOCIATION

January 2, 2024

Dominic Sims, CBO
Chief Executive Officer
International Code Council
500 New Jersey Avenue, N.W.
6th Floor
Washington, D.C. 20001

Re: Appeal of Staff Actions Pertaining to the 2024 International Energy Conservation Code

Mr Sims:

The American Public Gas Association, under CP#1-03 – Appeals,¹ respectfully submits this appeal of the International Code Council’s (“ICC”) processing of 2024 International Energy Conservation Code (“IECC”) code actions involving several code change proposals.

I. Issues Being Appealed

APGA is appealing the following provisions that are intended to be included in the 2024 IECC (“the Provisions”):

- **IECC-CE-PCD1-CAR-CED1-39 and IECC-CE-PCD1-CAR-2 CECD1-27:** Relating to electric vehicle power transfer infrastructure be installed for commercial applications.
- **IECC-CE-PCD1-CAR-4 CED1-15:** An adoptable appendix for an all-electric building.
- **IECC-CE-PCD1-CAR-3 CECD1-28:** An adoptable “electric-ready” building appendix.
- **IECC-CE-PCD1-CAR CECD1-18:** Requiring that commercial buildings without heat pumps meet 1.25 times the energy credits as compared to those buildings with heat pumps.
- **IECC-CE-PCD1-CAR CECP1-2:** Requiring commercial buildings to have either onsite renewable energy system or an off-site renewable energy contract.
- **IEC-R CAR-REPI 7-21:** Requiring residential buildings to be “solar-ready.”
- **IECC-R CAR RECPI-6/RECPI-7** (*subsequently included in the omnibus proposal approved 9/26/22*): Requiring residential buildings to be “EV-ready.”

¹ International Code Council, “CP1-03 – Appeals,” (approved: 05/20/07; revised: 06/11/22). As noted in a November 29, 2023, Building Safety Journal article, “[a]ppeals will be processed in accordance with Section 4.1 of Council Policy 1 – Appeals and Code Council procedures.” (<https://www.iccsafe.org/building-safety-journal/bsj-news/2024-international-energy-conservation-code-update-appeals-deadline-extended-and-next-steps/#>)

- **IECC-R CAR REPI-111** (*subsequently included in the omnibus proposal approved 9/26/22*): Requiring residential buildings to be “electric-ready.”
- **IECC-R CAR REPI-155-21**: An adoptable appendix requiring the installation of all-electric equipment and appliances in new construction.

Each one of these proposals, if adopted would impose residential or commercial costs of construction upon consumers to comply. ICC staff improperly processed these Provisions by permitting them to be put before the IECC consensus committees, despite the Provisions’ direct conflict with the IECC scope and intent, violations of due process and ICC procedures, and in some cases, federal preemption concerns.

II. Interest

APGA is the trade association for more than 730 communities across the U.S. that own and operate their retail natural gas distribution entities. They include not-for-profit gas distribution systems owned by municipalities and other local government entities, all locally accountable to the citizens they serve. Public gas systems focus on providing safe, reliable, and affordable energy to their customers and support their communities by delivering fuel to be used for cooking, clothes drying, and space and water heating, as well as for various commercial and industrial applications, including electricity generation.²

APGA’s public gas utility members provide the energy needed by the homes and businesses that will ultimately be impacted by these codes. Throughout the development of the 2024 IECC, from the beginning to now, APGA has participated, as our members are critical stakeholders in this proceeding. If the IECC is finalized as proposed, APGA’s members would be directly and materially affected by state or local adoption of the requirements of these proposals by disadvantaging the competitiveness of natural gas end use applications, as well as removing the choice of energy source from their customers.

III. Reasons for Appeal

A. Outside Scope/Intent of IECC

With the transition of the IECC from its traditional governmental vote-based code development process to a standards development process, ICC announced that the Code Council Board of Directors was revising the scopes and intents of the both the commercial and residential versions of the IECC.³ For instance, the new scope of the Commercial IECC, in relevant part, reads as follows:

“The International Energy Conservation Code-Commercial provides **market-driven**, enforceable requirements for the design and construction of commercial buildings, **providing minimum efficiency requirements for buildings that result**

² For more information, please visit www.apga.org.

³ “The Code Council Board of Directors under Council Policy 28 and the Consensus Procedures has sole authority to establish and revise the title, scope and intent of codes and standards developed by the Code Council.” ICC, *Leading the Way to Energy Efficiency: A Path Forward on Energy and Sustainability to Confront a Changing Climate*, https://www.iccsafe.org/wp-content/uploads/ICC_Leading_Way_to_Energy_Efficiency.pdf.

in the maximum level of energy efficiency that is safe, technologically feasible, and life cycle cost effective, considering economic feasibility, including potential costs and savings for consumers and building owners, and return on investment. Additionally, the code provides jurisdictions with supplemental requirements, including ASHRAE 90.1, and optional requirements that lead to achievement of zero energy buildings, presently, and through glidepaths that achieve zero energy buildings by 2030 and on additional timelines sought by governments, and achievement of additional policy goals as identified by the Energy and Carbon Advisory Council and approved by the Board of Directors. Requirements contained in the code will include, but not be limited to, prescriptive- and performance-based pathways. **The code may include nonmandatory appendices incorporating additional energy efficiency and greenhouse gas reduction resources developed by the Code Council and others....**⁴

The Residential IECC and Commercial IECC each have a respective scope and intent, and both are the same in all aspects, save for the qualifier of “residential” or “commercial.” The language clearly states that the IECC is intended to provide market-driven requirements for construction that result in energy efficiency. However, the above listed Provisions are in direct conflict with this recently updated intent, as they will increase construction costs without guaranteeing energy savings.

For instance, the scope of the IECC was reviewed during a preliminary meeting for the Commercial IECC consensus committee in September 2021, at which slides were presented outlining a list of topics for potential appendix chapters “for elements outside base scope.”⁵ A slide within the presentation explicitly identifies electrification, EV charging, renewables, resilience, and embodied carbon as part of this list. Despite prior ICC communications such as this, ICC staff chose to issue a statement on February 15, 2022,⁶ that reversed the definition of the IECC scope and intent in the middle of the code development process. Not only was such a change in the middle of the process highly inappropriate, APGA also believes it was impermissible, as only the ICC Board of Directors has authority to make changes to the IECC’s scope and intent.⁷

APGA and others raised this concern in a December 12, 2022, letter to the ICC Board of Directors,⁸ which noted that during the IECC development process, there was “unclear and inconsistent direction around the approved scope and intent of the IECC.” Before the December 2022 letter, APGA raised similar concerns with ICC leadership and staff through email communications and in-person meetings.

⁴ Section C101.3 Intent of the Commercial IECC, available at https://www.iccsafe.org/wp-content/uploads/ICC_Leading_Way_to_Energy_Efficiency.pdf. (emphasis added)

⁵ Slides are included as attachment with December 2022 letter. See slide 6.

⁶ https://www.iccsafe.org/wp-content/uploads/IECC-Discount-Rates-and-Code-Content-Memorandum_02_15.22.pdf (hereinafter, “February 2022 Scope/Intent Statement”).

⁷ See fn. 3.

⁸ Hereinafter, “December 2022 letter.” Included as an attachment.

ICC's Sustainability, Energy and High-Performance Code Action Committee ("SEHPCAC") also sent a letter to the ICC Board of Directors on October 3, 2022,⁹ in which the SEHPCAC requested that the Board of Directors provide clarification on the scope and intent of the IECC. In response to both the SEHPCAC letter and the December 2022 letter, the ICC Board of Directors declined to provide the necessary clarifications to the scope and intent of the IECC, stating that "the Board of Directors sets the scope and intent for codes and standards consistent with Council Policy 28 and does not provide updates or clarification to the scope or intent of codes or standards during an active development process, allowing the development process to proceed to resolution."¹⁰

While the ICC Board's response to APGA and SEHPCAC's communications seems incongruous with ICC staff's action of issuing the February 2022 Scope/Intent Statement, it perfectly demonstrates the inappropriateness of such a statement. APGA believes that ICC staff overstepped its authority in issuing the statement, as such power is reserved for the Board. APGA also believes that ICC's communications provided to the public ahead of the mid-process scope/intent change clearly place the above contested Provisions clearly in direct conflict with the IECC's scope and intent.

B. Violation of Due Process and ICC Procedures

According to the "IECC Committee Procedures ("the Procedures"),"¹¹ the 2024 IECC development process "shall be an open, transparent and deliberative process." Unfortunately, the development of the IECC failed to meet these standards on a number of occasions, including in the processing of the above contested Provisions.

The I-code development process has always required a provision to stand on its own and be debated in a public forum at a time and location that was appropriately noticed before the meeting. An individual provision must succeed or fail on its own and be openly debated by all interested stakeholders. A vote on any given proposal has not historically dictated the vote on an unrelated proposal and all discussions are privy to all who wish to participate. Unfortunately, this important precedent was broken during the 2024 IECC development process in an extremely concerning and improper manner: a group of IECC consensus committee members scheduled non-ICC affiliated meetings to discuss a number of proposals that would likely have failed balloting individually. This resulted in the development of a conglomeration of unrelated proposals from a number of different proponents that was then put to ballot as one proposal and referred to as "the omnibus."

While the creation of subgroups by a consensus committee is permitted under Section 6 of the Consensus Procedures, the subgroup that developed the omnibus proposal did not follow the transparent approved process needed for creation. Of note, the creation of such a subgroup "requires approval by a majority vote of the committee and appropriate public notice," neither of which occurred. Instead, many stakeholders, including APGA, were not made aware of these

⁹ <https://www.iccsafe.org/wp-content/uploads/SEHPCAC-MINUTES-10.5.22-draft.pdf>.

¹⁰ Letter from M. Wich, ICC Board, to D. Schryver, et al. responding to December 2022 letter from APGA and other trades requesting a Board-interpretation of the IECC scope and intent (Feb. 23, 2023).

¹¹

“omnibus” meetings, raising significant concerns surrounding the transparency of the code development process, and the opportunity to provide stakeholder input was also greatly diminished. ICC staff even acknowledged knowing of these meetings, but not needing to provide public notice of them, as they were not ICC-sanctioned. As noted above, two of the contested Provisions resulted from this highly improper and extralegal process.

Furthermore, ICC staff failed to ensure due process and minimize bias in the IECC development process by failing to create appropriately balanced consensus committees. According to the Procedures for ICC Consensus Committee, the membership of any consensus committee “shall be sufficiently diverse to ensure reasonable balance without dominance or imbalance by a single interest category, individual or organization.” The Procedures continue on to say that “[n]o single interest category should constitute more than 1/3 of the membership of any committee.” While the 1/3 rule did not appear to be violated, there was not “reasonable balance” on either of the consensus committees, nor the subcommittees, as a few interest categories significantly dominated membership over others.¹² Furthermore, there was at least one instance in which a representative from one interest category had an alternate that not only was *not* from the same organization but was from a completely different interest category altogether.¹³ This practice raises a number of conflict of interest concerns and demonstrates a failure of ICC staff to ensure that the consensus committees followed the Code Council’s own procedures.

Each of these failures of due process and ICC procedures resulted in the contested Provisions being included in the tentative 2024 IECC. Such Provisions would compel energy source choice for certain end-use applications and be anticompetitive in nature, resulting in marketplace injury. Energy conservation building codes such as the IECC are not intended nor permitted to have this type of impact. If not for improper processing of the above Provisions by ICC staff and the numerous process failures described above, the Provisions would not be part of the updated code.

C. Federal Preemption

APGA is also appealing the above stated Provisions because of significant concerns that many raise with regards to federal preemption. The need for fuel neutrality in building codes is underscored by a recent court decision from the United States Court of Appeals for the Ninth Circuit, California Restaurant Association v. City of Berkeley (“CRA v. Berkeley”).¹⁴ In CRA v. Berkeley, the court found that the Energy Policy and Conservation Act (“EPCA”) (42 U.S.S. § 6297(c)) preempts the city’s building code that banned natural gas piping in new buildings. The court found that “by its plain language, EPCA preempts Berkeley’s regulation here because it prohibits the installation of necessary natural gas infrastructure on premises where covered natural

¹² *E.g.*, out of 49 members on the IECC-R consensus committee (includes Chair and Vice Chair), 16 (or just under 1/3) are Government Regulators, despite there being 9 different interest categories represented.

<https://www.iccsafe.org/wp-content/uploads/2021-Energy-Consensus-Committee-Residential-Website-Roster-53123.pdf>.

¹³ *E.g.*, an ACEEE staff person has been listed as the alternate for the U.S. Department of Energy on the IECC-C consensus committee. <https://www.iccsafe.org/wp-content/uploads/2021-Energy-Commercial-Consensus-Committee-Website-Roster-72723.pdf>.

¹⁴ No. 21-16278. On January 2, 2024, the Ninth Circuit issued a ruling denying an *en banc* rehearing of the case.

gas appliances are used.” The court went on to explain that “EPCA does not permit States and localities to dodge preemption by hiding ‘energy use’ regulations in building codes.”

Accordingly, any model building codes or standards that expressly prohibit natural gas piping or appliances in new or existing buildings would be a misguided approach. According to judges in the 9th Circuit, such codes or standards are expressly preempted under EPCA. APGA believes that this holding also extends to building codes and standards that create a *de facto* ban on such infrastructure and appliances within buildings, including, but not limited to, “electric ready” provisions that require electric outlets for appliances and necessary electrical panel capacity to be installed any time gas piping and appliances are installed (but not vice versa). Such code and standard language acts as a ban on gas piping and appliances because of the unnecessary additional costs associated with them and the high potential for stranded resources.

IV. Requested Remedial Actions

A. Staying the publication of the 2024 IECC or, alternatively, staying the inclusion of the contested Provisions until the conclusion of the appeals process.

Despite the fact that ICC has already begun accepting pre-orders on a code that has not yet been finalized,¹⁵ APGA believes it prudent for the ICC Board to cease and desist from promulgating those provisions of the 2024 IECC that may be legally and procedurally defective and stay the publication of the 2024 IECC until all filed appeals are appropriately handled. In 2020, ICC chose to hold the publication of the pending 2021 IECC until all appeals were decided. This decision was critical, as the ICC Board ultimately decided to remove a number of provisions from the 2021 IECC as part of the appeals process. As the removal of provisions from the tentative 2024 IECC might again be a remedy that the ICC Board chooses to invoke as part of the appeals process, publication of the 2024 IECC before the appeals process has concluded would call into question the validity of the appeals process and introduce unnecessary confusion into the building code adoption process for any jurisdiction looking to adopt the most updated version of the code. Accordingly, we ask that the ICC Board follow the precedent set in 2020 and order a stay of the publication of the 2024 IECC.

¹⁵ https://shop.iccsafe.org/international-codes/model-codes/2024-international-energy-conservation-coder.html?utm_medium=email&_hsmi=282570391&_hsenc=p2ANqtz-13RxHDtVZW_SUJYF6lCSNqHf_WUsWFGNKSMHOT4EfuZuVEVdSLxqe0ncInje9_vGIRqawMT4IN0xFX3uI26wvtGsFw&utm_content=282570391&utm_source=hs_email (IECC preorders); https://shop.iccsafe.org/international-codes/model-codes/2024-international-residential-coder.html?utm_medium=email&_hsmi=282570391&_hsenc=p2ANqtz--Nh4lZjMKVcoYUowhOHwfZkrqgDfisqyNn2Np0iL5o3W2K248KFn5LEhjcCIYqZHZY_G62PutEI0eMN9xXH08t5PIAA&utm_content=282570391&utm_source=hs_email (IRC preorders).

It is concerning that the pre-order form for the IRC appears to highlight a change from a Chapter 11 appendix that is not yet finalized as part of the 2024 IECC development process. Additionally, the “Coffee with the Sustainability Membership Council” webinar on November 17, 2023, also discussed the changes to the IECC as though they were final, despite the pending appeals period.

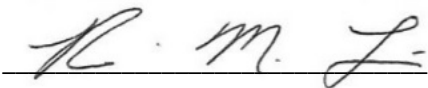
B. Excluding the Provisions from the 2024 IECC.

Because ICC staff improperly processed the above stated Provisions and because such Provisions are in direct conflict with the IECC scope and intent, are the result of violations of due process and ICC procedures, and in some cases, are federally preempted, APGA is requesting that all Provisions be excluded from the 2024 IECC. Permitting such Provisions to remain in the code would be an endorsement of a code development process that lacked due process, transparency, and adherence to ICC's own procedures.

* * *

APGA appreciates your consideration of these appeals and looks forward to ICC's response consistent with the provisions of CP#1-03 – Appeals (as revised on 6/11/22). Please do not hesitate to contact me directly if you have questions or seek additional support for this appeal.

Respectfully submitted,



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Cc: ICC Board of Directors

Attachments



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City of Carlsbad Fire Department
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THOMAS PETERSON, CBO
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City of Oregon City
Oregon City, OR

ANGIE WIESE, PE, CBO
Fire Division Manager
City of St. Paul, Minnesota
St. Paul, MN

Chief Executive Officer
DOMINIC SIMS, CBO

November 21, 2022

Anthony Floyd, FAIA, CSP
Committee Chair
Sustainability, Energy and High-Performance Code Action Committee
(SEHPCAC)
Via E-mail: ANTF@SCOTTSDALEAZ.GOV

Dear Mr. Floyd,

The scope and intent of ICC codes and standards are set by the Board of Directors in accordance with Council Policy 28. The Board does not provide updates or clarification to the scope or intent of codes or standards during an active development process, allowing the development process to proceed to resolution. After publication of the IECC, the Board may review the process to identify potential areas of improvement. We have confidence in the process and accordingly recommend that any conflicts or issues be addressed by public comment throughout the process.

Thank you for your continued engagement with the International Code Council. We are greatly appreciative of your leadership and the work of all of our dedicated committee members.

Sincerely,

Michael Wich, CBO
President
ICC Board of Directors



December 12, 2022

ICC Board of Directors:

On behalf of the American Gas Association (“AGA”), American Public Gas Association (“APGA”), and National Propane Gas Association (“NPGA”), we are writing in support of the request for clarification from the International Code Council’s (“ICC”) Sustainability, Energy and High-Performance Code Action Committee (“SEHPCAC”). In an October 3, 2022, letter to the ICC Board of Directors,¹ the SEHPCAC requested that the Board of Directors provide clarification on the scope and intent of the International Energy Conservation Code (“IECC”).

We agree with the SEHPCAC that there has been “unclear and inconsistent direction around the approved scope and intent of the IECC.” While both the Residential IECC and Commercial IECC each have a respective scope and intent, both are the same in all aspects, save for the qualifier of “residential” or “commercial.” This important interpretation will apply to both codes. Thus, we are disappointed in the Board’s November 21, 2022, response to the SEHPCAC,² declining to clarify this critical interpretation.

We have raised similar concerns with ICC leadership and staff through email communications and in-person meetings earlier this year. In support of our concerns, we pointed to additional documentation that further suggests the ICC staff statement issued on February 15, 2022,³ may be inconsistent with the IECC scope and intent, especially as it was perceived by the public leading up to the development of the consensus committees.

For instance, the scope of the IECC was reviewed during a preliminary meeting for the Commercial IECC consensus committee in September 2021, at which slides were presented outlining a list of topics for potential appendix chapters “for elements outside base scope.”⁴ A slide within the presentation explicitly identifies electrification, EV charging, renewables, resilience, and embodied carbon as part of this list.

AGA is a Founding Strategic Partner of the ICC, and AGA, APGA, and NPGA staff and members are actively involved in a number of ICC activities. As a respected independent code development organization, it is important for ICC to be clear in its public communications, including the breadth of its codes. We are concerned about how this apparent inconsistency may impact the current IECC development process, such as through the appeals process, as well as future cycles.

¹ <https://www.iccsafe.org/wp-content/uploads/SEHPCAC-MINUTES-10.5.22-draft.pdf>.

² <https://www.iccsafe.org/wp-content/uploads/SEHPCAC-AGENDA-12.7.22-rev1.pdf> (p 3).

³ https://www.iccsafe.org/wp-content/uploads/IECC-Discount-Rates-and-Code-Content-Memorandum_02_15.22.pdf.

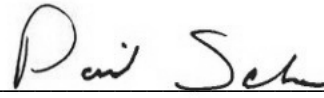
⁴ Slides are attached for reference. See slide 6.

We appreciate your consideration of this request. Please do not hesitate to contact any of us directly if you have questions.

Respectfully submitted,



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AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 77 million residential, commercial,

and industrial natural gas customers in the U.S., of which 95 percent—more than 73 million customers—receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies, and industry associates. Today, natural gas meets more than one-third of the United States' energy needs.⁵

APGA is the trade association for more than 730 communities across the U.S. that own and operate their retail natural gas distribution entities. They include not-for-profit gas distribution systems owned by municipalities and other local government entities, all locally accountable to the citizens they serve. Public gas systems focus on providing safe, reliable, and affordable energy to their customers and support their communities by delivering fuel to be used for cooking, clothes drying, and space and water heating, as well as for various commercial and industrial applications.⁶

NPGA is the national trade association of the propane industry with a membership of about 2,500 companies, and 36 state and regional associations representing members in all 50 states. NPGA's membership includes retail marketers of propane gas who deliver the fuel to the consumer, propane producers, transporters and wholesalers, and manufacturers and distributors of equipment, containers, and appliances. Propane, or liquefied petroleum gas, is used in millions of installations nationwide for home and commercial heating and cooking as well as various other agricultural, industrial, and transportation sectors. The variety of appliances powered by propane include the pool heaters subject to the agency's proposal.

⁵ For more information, please visit www.aga.org.

⁶ For more information, please visit www.apga.org.



E4C: Commercial Code Consensus Committee

Committee Kickoff

September 9, 2021

How Fast is 10 Seconds?

- Tell us who you are and what you're about in 10 seconds
- Our first exercise in keeping it snappy
- (...and in using our mute buttons)



Meeting Minutes

- None today
- Most minutes are long & boring
- Maybe our front page should show:
 - 100-word summary
 - Action list with deadlines
 - Issues resolved & unresolved
- (Follow with long & boring part)

The Baylor University Historical Society met in its annual luncheon and business meeting on May 29th, 1953 at the Union Building of Baylor. There were 54 members and guests present, for the luncheon.

Dr. E. Bruce Thompson, president, presided. Dr. M. L. Ferguson gave the invocation. Charles Douglas accompanied by Joe Liles gave pleasure with his songs. Dr. Thompson introduced the guests, past presidents and speakers. Mrs. A. R. Wilson spoke of satisfaction she had as President of the Texas State Garden Clubs in helping to beautify the site of the College at Independence.

Dr. M. L. Ferguson introduced Dr. J. M. Price, head of the Dept. of Christian Edu. in Southwestern Seminary. Dr. Price gave a vivid and delightful paper on Dr. E. H. Carroll and his influence on Baylor University. The meeting adjourned to the North Lounge. Twenty diners were lost in transit!

Dr. Thompson called on Mr. Burkhalter who spoke of his approaching of financially able Texan for projects at Independence. He asked the Society for permission to place a sign in view of the Highway reading "Visit Original Baylor Campus 600 yards". Permission granted. He asked for a vote of the Society as to adding to the names to be placed on a marker, of the three founders-Baylor, Hucksins, Tyson, that of Gen. Sam Houston. Motion made and carried. Mr. Burkhalter secured the job of tree trimming and underbrush clearing for the low sum of \$165.00. Judge E. E. Townes of Houston sent him \$250.00 for this work with the request that the 48 groups of Live Oaks be called "Garrett Grove" in honor of his wife's grandfather Hoaco Garrett, a wooden plaque embedded in stone to this effect. Motion made and carried. Mr. Burkhalter spoke of the large electric light that illumines the Park at night and of the piping of water to various parts, both done with the fine help of local authorities.

Marching Orders

- What our committee is *required* to do
- What our committee can also *decide* to do
- (Anything *not* in our bailiwick?)



What We *Must* Accomplish

- Consider every qualified CCP submitted
 - Plus others created by subcommittees
- **Create a 2024 IECC more energy efficient than 2021 IECC**
- Provide a zero-energy alternate compliance path
 - The Zero Code, or equivalent
- Begin a “glide path to 2030 zero-energy” compliance path
 - 1/3 of the way for 2024
 - 2/3 the way for 2027
 - Zero energy for 2030
- Possibly, mandates from Energy & Carbon Advisory Council?

What We Can *Decide* to Accomplish

Appendix Chapters for elements outside base scope

- Electrification
- EV Charging
- Renewables
- Resilience
- Embodied Carbon
- More?



Project Team (executive committee)

- Makes recommendations to:
 - Committee on:
 - disposition of input & public comments
 - timing on complex proposals/comments objections
 - big-picture organization of code
 - ICC Secretariat on :
 - membership issues
 - partnerships with other orgs for additional support/funding
- Members:
 - ICC Secretariat (Stenger)
 - Committee Vice Chair (Hoffman)
 - Subcommittee Chairs (TBD)

HELLO – MY NAME IS _____

- IECC Commercial Code Consensus Committee
- IECCCCCC
- C4 (plastic explosive)
- ECCC (Emily)
- **E4C (Duane)**



Timeframe – Working towards 2024 publication

| Task | Start | Finish |
|--|---------------|---------------|
| Review code change proposals | Halloween | July 2022 |
| New committee CCPs | December 2021 | June 2022 |
| Draft code (<i>while simultaneously reviewing proposals</i>) | February 2022 | July 2022 |
| Public comments | August 2022 | October 2022 |
| Review and Modify | November 2022 | January 2023 |
| Cleanup Comments | February 2023 | February 2023 |
| Incorporate Cleanup | March 2023 | April 2023 |
| | | |

Code Change Review and Decision

- For each subcommittee topic
 - Tackle big-scope proposals first
 - Maybe refer to smaller work group
 - Maybe develop new or combined variation
 - Eventually vote
 - Present to E4C
 - Vote to publish draft
- After 1st Publication
 - SC review of comments
 - Attempt to reconcile
 - SC draft responses
 - Present drafts to E4C
 - Send responses
- Rinse and Repeat
 - Final cleanup revisions
- Final E4C vote

Voting – Subcommittee & Full Committee



- Need quorum to work
 - 23 of the 45 E4C members
- **50% + 1** for (almost) all SC & E4C decisions
 - That's 50% of members present (If 35 present: 18 +1 = 19 votes)
- **2/3** required for vote on final code package
 - 30 of the 45 E4C members

Cost Prediction and Fact-Checking for Major Issues

Will it add \$15,000 per apartment, or \$436?

- A primary function within Subcommittees
- If no consensus, SC report would show side-by-side “facts” and cost predictions, with backup, in a standard format
- Also energy and carbon reductions
- Standardize LCC and ROI assumptions
- Account for “learning curve”?

Efficient (& Lively) Use of Our Time

- How to mitigate grandstanding and industry wars?
 - 2-hour debate, followed by 95% “no” vote?
- Major issue: 20 minutes pro, 20 minutes con, then straw poll
- Coordination of related proposals within SC before debate
- Designated start times for specific major issues



The 3-Minute Personal Statement

- No lunches or late-night frosty beverages together?
- No way to find common interests with committee members?
- Proposal: Twice each meeting
- 3 minutes: About you, and what's important for us to know
 - Could add slides or other media, or just talk
 - Sign-up list, schedule in advance



Conflict and Consensus

- Some organizations working to propel change
- Some organizations working to slow change
- Some industries working to advantage their products
- How do we make good forward progress, with the broadest consensus possible?

Committee Member Q&A

A scenic view of the Seattle skyline, featuring the Space Needle and various skyscrapers, framed by dark tree branches in the foreground. The sky is blue with some light clouds. The view is taken from an elevated position, possibly a balcony or rooftop, with a metal railing visible in the lower left.

**Please enter questions in Chat
We will read question or ask
you to unmute & briefly speak**

IECC Proposal Submittal Update

- October 12 deadline (what time?)
- Submittals received to date

Subcommittees – Doing the heavy lifting

- Each member votes in one committee
 - Can participate in others, with permission of chair
- SC presents recommendations to E4C, in plain English
- Maintain chart showing SC progress on proposals processed & energy saved

Envelope and Embodied Energy

- Tom Culp
- Danielle Ashley
- Emily Lorenz
- Greg Johnson
- Bob Ross
- Craig Drumheller
- Jeremy Williams
- Richard Burton
- Matt Belcher
- Scott Brooks
- Chris Clausing
- Zepherinus Church Norbert



HVAC and Water Heating

- **Shaunna Mozingo**
- Thomas Schultz
- Drake Erbe
- Laura Petrillo-Groh
- Daniel Nall
- Blake Shelide
- James Yeoman
- Adrian Jones
- Hope Medina
- Christopher Perry
- Amin Tohmaz



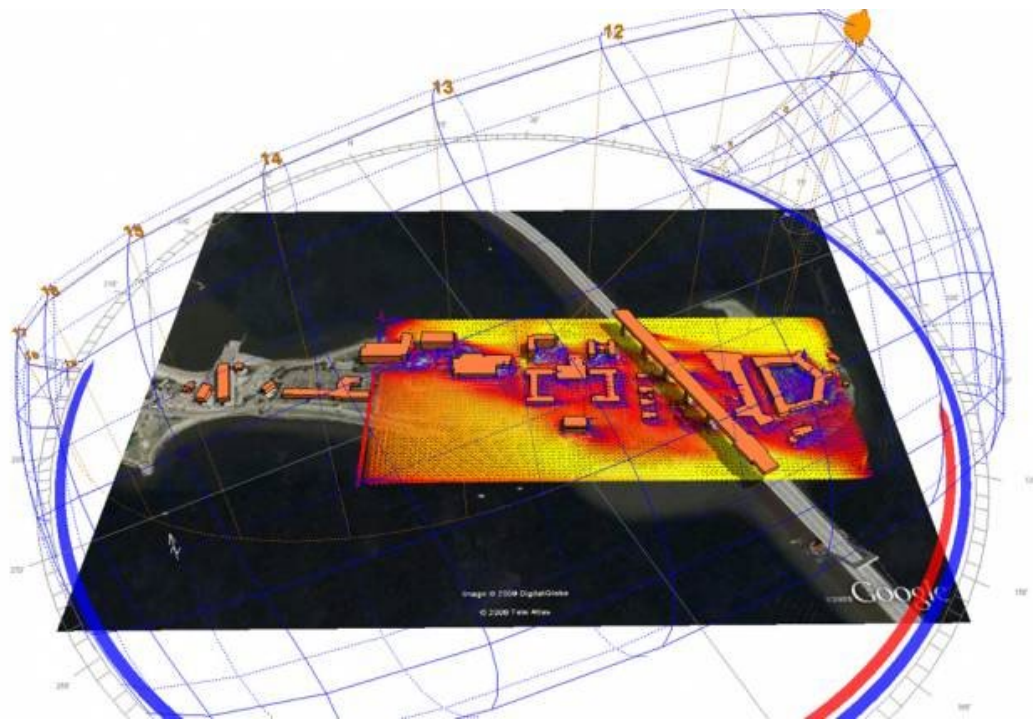
Lighting, Electrical & Renewables

- Michael Jouaneh
- Steve Rosenstock
- Michael Tillou
- Susan Musngi
- Anthony Floyd
- Ali Alaswadi
- Bryan Holland
- Jack Bailey
- Andrew Klein
- Melissa Moseley



Modeling, Whole Building Metrics, Zero Energy

- **Greg Eades**
- Charles Eley
- David Goldstein
- Stephen Harris
- John Dalzell
- Don Mock
- Milton Grew
- Emily Hoffman
- Diana Burk
- Darren Port



Admin & Integration (Working Group)

- Bryan Holland
- Drake Erbe
- Shaunna Mozingo
- Jack Bailey
- Daniel Nall
- Greg Johnson
- Thomas Schultz
- Anthony Floyd
- James Yeoman
- Richard Burton
- Don Mock
- Zepherinous Church Norbert
- Milton Grew
- Matt Belcher
- Chris Clausing

Multifamily & Hospitality (Working Group)

- Steve Rosenstock
- Bryan Holland
- Danielle Ashley
- Michael Jouaneh
- Greg Eades
- David Goldstein
- Zepherinous Church Norbert
- Chris Clausing
- Susan Musngi
- Shaunna Mozingo
- Jack Bailey
- Daniel Nall
- Greg Johnson
- Craig Drumheller
- Don Mock
- John Dalzell
- Milton Grew

Healthcare, Lab & Education (Working Group)

- Steve Rosenstock
- Bryan Holland
- Tom Culp
- Michael Jouaneh
- Greg Eades
- Michael Tillou
- Stephen Harris
- Zepherinous Church Norbert
- Shaunna Mozingo
- Jack Bailey
- Daniel Nall
- Bob Ross

Environmental Justice (Working Group)

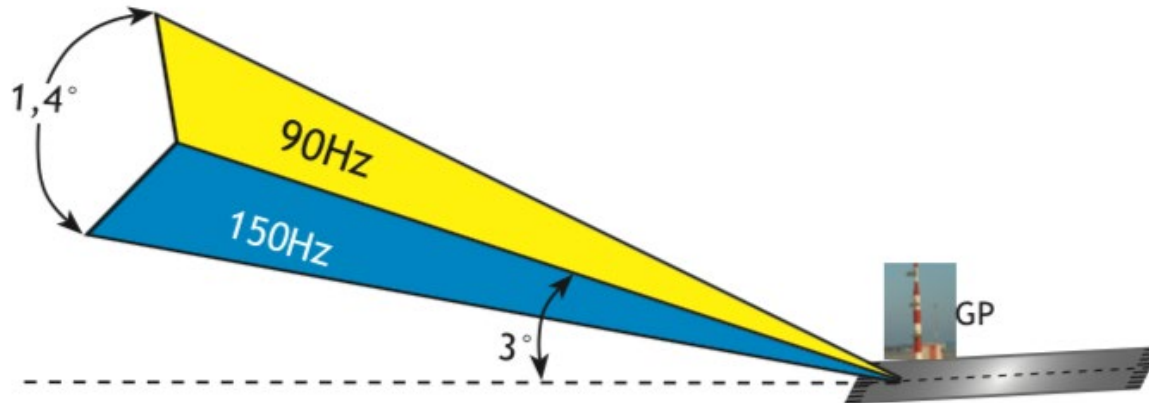
- Danielle Ashley
- Laura Petrillo-Groh
- Michael Jouaneh
- Greg Eades
- Michael Tillou
- Jack Bailey
- Thomas Schultz
- Greg Johnson
- Anthony Floyd
- Blake Shelide
- Ali Alaswadi
- Zehpherinus Church Norbert
- Hope Medina

Construction Cost & LCC Cost (Temp Working Group)

- Select methodology
- Establish time frame, discount rate, etc.
- Create one system that works for all proposals

Glide Path to 2030 (Temp Working Group)

- Plan for all 3 code cycles this year, or just the 2024?
- Outline where we'll find savings for future code cycles?
- How does the glide path diverge from the base code?



Upcoming Meetings

- September 29 – 2nd main committee meeting
 - Vote on committee structure and subcommittee members
- September 17 – kickoff meetings for temp working groups
 - Construction cost
 - Glide path

Committee Member Q&A

A scenic view of the Seattle skyline, featuring the Space Needle and various skyscrapers, framed by dark green tree branches in the foreground. The sky is a clear, bright blue with a few wispy clouds. The foreground shows a balcony railing and the side of a building with a window.

**Please enter question in Chat
Emily will read question or
ask you to unmute**

Public Comment

A scenic view of a forest with tall evergreen trees and a path leading through them, framed by a dark archway. The trees are lush green, and the path is visible in the distance. The sky is blue and clear.

2 minutes per commenter

Please ask in the chat to be unmuted. State name & org.

That's all Folks!



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Washington, DC 20001
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t: 202.370.1800
f: 202.783.2348
www.iccsafe.org

February 23, 2023

Karen Harbert
President & CEO
American Gas Association
400 N. Capitol Street, NW
Washington, DC 20001

Dave Schryver
President & CEO
American Public Gas Association
201 Massachusetts Avenue NE, Suite C-4
Washington, DC 20002

Stephen Kaminski
President & CEO
National Propane Gas Association
1140 Connecticut Avenue, NW, Suite 1075
Washington, DC 20036

Dear Karen, Dave, and Stephen,

Thank you for reaching out to share your concerns with the ongoing development of the International Energy Conservation Code (IECC). We value the long standing and ongoing engagement of your groups in the development and adoption of the I-Codes, the most widely used codes in the world.

As indicated in our response to the Sustainability, Energy and High-Performance Code Action Committee (“SEHPCAC”), the Board of Directors sets the scope and intent for codes and standards consistent with Council Policy 28 and does not provide updates or clarification to the scope or intent of codes or standards during an active development process, allowing the development process to proceed to resolution.

Following completion of development of the 2024 IECC, the Board may review the process to identify potential areas for improvement. If such a process is undertaken we will consider the feedback and questions received from stakeholders.

While the IECC development process is currently underway, the ICC Board of Directors has issued additional information regarding our activities to help communities meet their sustainability goals. For example, the Board approved “Decarbonization of the Built Environment: Solutions from the International Code Council” on September 10, 2022, which stated,

“As the IECC development committees consider the inclusion of provisions that reduce GHG emissions through electrification, they must also consider the adoptability of the code across the U.S. and internationally. . . Recognizing the diversity of policy approaches across the country, the Code Council is focused on assuring whatever energy source a community chooses to use is used safely and efficiently. Where it is installed, natural gas infrastructure must be installed, operated and maintained in a manner that protects building occupants and property.”

We remain committed to the International Fuel Gas Code (IFGC) and its potential to incorporate provisions for new technologies and fuels.

Thank you again and we look forward to continued dialogue on how we can deliver safe, sustainable and resilient buildings and communities.

Sincerely,

A handwritten signature in black ink that reads "Michael P. Wich". The signature is written in a cursive, flowing style.

Michael Wich
Board President
International Code Council



November 20, 2023

ICC Board of Directors:

On behalf of the American Gas Association (“AGA”), American Public Gas Association (“APGA”), and National Propane Gas Association (“NPGA”) (collectively, “Joint Requesters”), we are writing to request that the International Code Council (“ICC”) Board of Directors (“Board”) issue a 60-day extension to the appeal period for the 2024 International Energy Conservation Code – Commercial, 2024 International Energy Conservation Code – Residential, and 2024 International Residential Code – Chapter 11 (collectively, “2024 IECC”), as well as a stay of the publication of the 2024 IECC until all appeals have been decided.

A. Interests

AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 77 million residential, commercial, and industrial natural gas customers in the U.S., of which 95 percent—more than 73 million customers—receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies, and industry associates. Today, natural gas meets more than one-third of the United States’ energy needs.¹

APGA is the trade association for more than 730 communities across the U.S. that own and operate their retail natural gas distribution entities. They include not-for-profit gas distribution systems owned by municipalities and other local government entities, all locally accountable to the citizens they serve. Public gas systems focus on providing safe, reliable, and affordable energy to their customers and support their communities by delivering fuel to be used for cooking, clothes drying, and space and water heating, as well as for various commercial and industrial applications.²

NPGA is the national trade association of the propane industry with a membership of about 2,500 companies, and 36 state and regional associations representing members in all 50 states. NPGA’s membership includes retail marketers of propane gas who deliver the fuel to the consumer, propane producers, transporters and wholesalers, and manufacturers and distributors of equipment, containers, and appliances. Propane, or liquefied petroleum gas, is used in millions of installations nationwide for home and commercial heating and cooking as well as various other agricultural, industrial, and transportation sectors. The variety of appliances powered by propane include the pool heaters subject to the agency’s proposal.

¹ For more information, please visit www.aga.org.

² For more information, please visit www.apga.org.

Joint Requesters provide fuel for the thermal energy needed by the homes and businesses that will ultimately be impacted by these codes. The Requesters have engaged in the 2024 IECC development process from the beginning, both as interested parties and consensus committee members. Accordingly, Joint Requesters and our members are critical stakeholders in this proceeding.

B. Requests

- a. An extension of the IECC appeal period is justified due to inconsistent, vague, and lack of communication pertaining to the code’s development and appeals process.**

Joint Requesters ask the ICC Board to extend the 2024 IECC appeals period for 60 days due to a number of concerns that deprive both Joint Requesters and all interested stakeholders of a reasonable opportunity to review the tentative changes to the IECC and develop a meaningful appeal, if necessary. Such extension is warranted for a number of reasons, as discussed below.

For any stakeholders not in attendance at the ICC’s Board of Directors annual meeting on October 7, 2023, in St. Louis, Mo. or not a member of an IECC committee, the earliest potential notification of how the 2024 IECC appeals process would operate came in the form of an October 23, 2023, Building Safety Journal (“BSJ”) article.³ According to the article, the appeals process was “anticipated to begin on December 5, 2023.” Not surprisingly, it was a shock to many when, on November 3, 2023, an email was sent from ICC staff to interested stakeholders, announcing the beginning of the appeals period and that it would conclude on December 3, 2023. The extreme inconsistency regarding the announced anticipated appeals period start date and actual start date is reason enough to extend the 2024 IECC appeals period.

For any stakeholders that do not subscribe or closely monitor the BSJ publication, the November 3rd email would be their first notice of how the appeals process would operate. Unfortunately, the BSJ article only vaguely noted that the ICC Board had decided to “[f]ollow Section 4.1 of CP-1 – Appeals for properly submitted appeals.” Section 4.1 states:

“If the appeal is not in regard to a committee or staff action, the appeal shall be placed before the Appeals Board within thirty (30) days of receipt of the appeal.”

Not only does this provision not clearly explain how appeals regarding a committee or staff action will be handled, it also does not clarify whether the rest of CP-1 applies to the 2024 IECC appeals process, including what constitutes “properly submitted appeals.” Joint Requesters have reached out to ICC staff to gain clarification on a number of questions surrounding the appeals process, but, as of the writing of this letter, have yet to receive necessary clarifications.

³ <https://www.iccsafe.org/building-safety-journal/bsj-news/highlights-from-the-international-code-council-board-of-directors-fall-2023-meeting/#>.

As a respected independent code development organization, it is important for ICC to be clear in its public communications, including those related to any processes related to the development and finalization of its codes. Accordingly, Joint Requesters are concerned about how this apparent inconsistency may impact the current IECC appeals. Not only is it crucial for ICC to extend the appeals period due to this vague and lack of communication regarding the process, but it also must be sure to adequately notify interested stakeholders with any clarifications.

The appeals period for the 2024 IECC also encompasses two federal holidays when many stakeholders are away from work, including ICC employees.⁴ The limited staff available during this time will make it difficult to develop meaningful appeals in response to the final balloting of the 2024 IECC. This challenge is paired with the fact that stakeholders continue to face significant supply chain and worker shortages that pose further obstacles to giving these complex and lengthy code changes the critical review and feedback that are required.

Finally, ICC staff did not and does not plan to release a final tentative version of the 2024 IECC with all changes from the 2021 edition clearly redlined.⁵ This is particularly concerning, as the copious amount of tentative changes to the 2024 IECC are now ultimately spread across numerous documents comprised of hundreds of pages. The current appeal period is simply not sufficient time for Joint Requesters and other interested stakeholders to not only compile a master list of all the changes voted forward but also closely scrutinize those provisions and the code as a whole in order to develop meaningful appeals.

Given the numerous compounding factors impacting stakeholders' ability to investigate potential legal and procedural violations, review the final actions of the committees, and develop meaningful appeals in the allotted time, the ICC Board should extend the appeal period by at least an additional 60 days. This will allow adequate time for all stakeholders to review and understand the tentative 2024 IECC, which will ensure all have the opportunity to file a meaningful appeal, if needed. Providing a 60-day extension for the submission of appeals will also not cause a significant delay in ICC's release of the 2024 IECC, as ICC appeared to be prepared for an appeals process that did not even begin until December.⁶

⁴ The federal holidays encompassed by the comment period include the following: Veteran's Day, observed (November 10, 2023) and Thanksgiving Day (November 23, 2023). In the November 2023 ICC Connections email sent to subscribers on November 4, 2023, ICC staff announced that all U.S. Code Council offices would be closed on November 10, 23, and 24.

⁵ Email from K. Stenger, ICC, to R. Lani, APGA, in response to a number of inquiries regarding the 2024 IECC appeals process (Nov. 14, 2023) ("I will say that we will not be putting out another draft so you will need to look at PCD2 and the Committee Action Reports.").

⁶ See fn. 3.

- b. Staying the publication of the 2024 IECC before all appeals have been decided is justified, as not doing so would result in premature publication of the code, call into question the validity of the appeals process, and invite confusion into building code adoption processes.**

Despite the fact that ICC has already begun accepting pre-orders on a code that has not yet been finalized,⁷ we believe it prudent for the ICC Board to cease and desist from promulgating those provisions of the 2024 IECC that may be legally and procedurally defective and stay the publication of the 2024 IECC until all filed appeals are appropriately handled. In 2020, ICC chose to hold the publication of the pending 2021 IECC until all appeals were decided. This decision was critical, as the ICC Board ultimately decided to remove a number of provisions from the 2021 IECC as part of the appeals process. As the removal of provisions from the tentative 2024 IECC might again be a remedy that the ICC Board chooses to invoke as part of the appeals process, publication of the 2024 IECC before the appeals process has concluded would call into question the validity of the appeals process and introduce unnecessary confusion into the building code adoption process for any jurisdiction looking to adopt the most updated version of the code. Accordingly, we ask that the ICC Board follow the precedent set in 2020 and order a stay of the publication of the 2024 IECC.

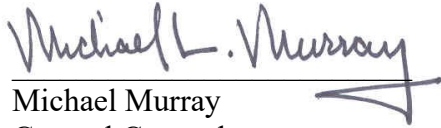
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We appreciate your consideration of these requests. Please do not hesitate to contact any of us directly if you have questions.

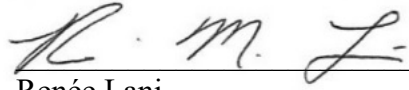
Respectfully submitted,

⁷ https://shop.iccsafe.org/international-codes/model-codes/2024-international-energy-conservation-coder.html?utm_medium=email&_hsmi=282570391&_hsenc=p2ANqtz-13RxHDtVZW_SUJYF6lCSNqHf_WUsWFGNKSMH0t4EfuVEVdSLxqe0ncInje9_vGIRqawMT4IN0xFX3uI26wvtGsFw&utm_content=282570391&utm_source=hs_email (IECC preorders); https://shop.iccsafe.org/international-codes/model-codes/2024-international-residential-coder.html?utm_medium=email&_hsmi=282570391&_hsenc=p2ANqtz--Nh4lZjMKVcoYUowhOHwfZkrqgDfisqyNn2Np0iL5o3W2K248KFn5LEhjcCIYqZHZY_G62PutEI0eMN9xXH08t5P1AA&utm_content=282570391&utm_source=hs_email (IRC preorders).

It is concerning that the pre-order form for the IRC appears to highlight a change from a Chapter 11 appendix that is not yet finalized as part of the 2024 IECC development process. Additionally, the most recent “Coffee with the Sustainability Membership Council” webinar on November 17, 2023, also discussed the changes to the IECC as though they were final, despite the pending appeals period.



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