



Edison Electric
INSTITUTE

Customer Solutions

February 2, 2024

International Code Council
Appeals Board

Re: International Energy Conservation Code 2024 Appeals

To the ICC Appeals Board,

The Edison Electric Institute (EEI) appreciates the opportunity to submit comments on the appeals that were filed with the International Code Council (ICC) on the final draft of the 2024 version of the International Energy Conservation Code (Residential and Commercial).

EEI is the association that represents all U.S. investor-owned electric companies. EEI's member companies provide electricity for nearly 250 million Americans and operate in all 50 states and the District of Columbia. The electric power industry supports more than 7 million jobs in communities across the United States. EEI's member companies invest more than \$140 billion each year, on average, to make the energy grid smarter, cleaner, more dynamic, more flexible, and more secure; to diversify the nation's energy mix; and to integrate new technologies that benefit both customers and the environment.

EEI's member companies are leading a profound, long-term transformation in how electricity is generated, transmitted, and used. This clean energy transition already has resulted in significant greenhouse gas (GHG) emissions reductions, as the Environmental Protection Agency (EPA) has recognized, and more than 40 percent of our nation's electricity now comes from clean, carbon-free sources.

EEI's member companies are committed to getting the energy they provide as clean as they can as fast as they can, while keeping customer reliability and affordability front and center. Across the industry, electric companies are investing in a broad range of carbon-free technologies and approaches, with the goal of demonstrating these technologies so that they can help further reduce power sector emissions when they satisfy industry performance requirements and are affordable for customers.

EEI strongly supported the revision to the process for updating the 2024 version of the IECC. EEI was honored to be a member of the Commercial Energy Code Committee and one of the subcommittees and one of the working groups. In addition, EEI participated as an interested party with the Residential Energy Code Committee and various subcommittees.

EEI would also like to thank the Appeals Board for having an open process that allows interested parties to provide written and oral testimony on important process questions.

General Comments

I. Scope of Appeals Board Hearing

On the ICC web site, at <https://www.iccsafe.org/products-and-services/i-codes/code-development/2024-iecc-appeals/>, under the section entitled “Purview of the Appeals Board”, there is the following statement:

“The appeals board shall only consider matters of process and procedure and to sustain an appeal must determine there was a material and significant irregularity in the process or procedures. Issues of preemption are legal in nature, and thus are not addressed in the appeals process. Preemption issues are addressed in accordance with CP 49 Conforming Codes and Standards to United States Federal Law and International Law.

CP 01 6.3.7 – Review by the Appeals Board shall be limited to matters of process and procedure. The Board of Appeals shall not render decisions on the relative merits of technical matters.

CP 01 6.3.8 – In order to sustain the appeal, or any part thereof, the Appeals Board must find that there was a material and significant irregularity of process or procedure.”

In addition, on the ICC web site at https://icc.qualtrics.com/jfe/form/SV_5hzAqSrkc8OnY, “2024 IECC Appeals Appeals Viewpoint and Notice of Attendance”, there is the following statement that interested parties are required to respond “yes” to:

- *Board of Appeals Purview*

I understand that "Review by the Appeals Board shall be limited to matters of process and procedure. The Board of Appeals shall not render decisions on the relative merits of technical matters."

EEI understands this statement and has replied “yes” on the form.

However, EEI would like to point out that some of the appeals are not based on process at all. In some appeals, a portion or majority of the appeal is based on technical issues, economic issues, enforcement issues, ICC policy issues, and/or state/federal policy issues. In other words, the appeals are not related to the process and procedures used to update the IECC.

In addition, in the January 23, 2024 agenda posted at <https://www.iccsafe.org/wp-content/uploads/2024-IECC-Appeals-Notice-of-Appeals-Hearings.pdf>, there are the following topics / categories that are going to be discussed:

- Scope and Intent
- Cost analysis approach
- Increasing efficiency
- Principle of not prioritizing any fuel sources
- Consistency with other codes, including the IBC
- Feasibility of implementation

- Any other subject specific issues

In EEI's view, the items in the list above are not process or procedure issues. They deal with ICC policy (scope and intent, principles, consistency), code correlation, code implementation (feasibility), analytical issues (cost analysis), and technical issues (increasing efficiency). All of these, while important topics, have nothing to do with the process and procedures followed by the subcommittees and full committees in updating the IECC.

EEI recommends that ICC change the agenda to focus on process and procedure questions, to be consistent with the ICC web site. However, if the agenda is not changed, and parties are allowed to discuss non-process / procedural issues, then EEI reserves the right to respond to or comment on any technical, policy, economic, feasibility, or other issues that are discussed by any appellant or other interested party.

II. Openness of the IECC Process

As stated earlier, EEI was a committee member and subcommittee member for the IECC Commercial Energy Code and an interested party for the IECC Residential Energy Code.

EEI would like to commend the ICC staff for all of their hard work to make the process as open and as transparent as possible.

For the record, EEI would like to state that we were always informed as to the dates and times of upcoming full committee and subcommittee meetings. In addition, the IECC Residential and Commercial web sites were consistently updated in a timely manner, so that committee members and interested parties would have access to agendas and proposed changes and prior meeting minutes before the start of the meetings.

In addition, the ICC staff made sure that documents were visible on the webinar screens to make sure that all participants would be able to see the items that were being discussed, as well as any subcommittee or full committee amendments.

In the meetings that EEI attended, we were always allowed to provide input on any proposal or issue that was being discussed. The full committee chairs and subcommittee chairs and all co-chairs were very diligent in making sure that all viewpoints from all interested stakeholders were heard.

Specific Process / Procedure Comments

III. Voting

ICC staff, committee chairs and co-chairs, and subcommittee chairs and co-chairs did a very good job in making sure that all votes were properly counted, and that committee members and subcommittee members were informed of the results of all votes that were taken.

In cases where committee members were not able to vote electronically, procedures were in place to make sure that their votes were counted manually and added to the final vote totals for each proposed code change or amendment.

IV. Discussion of Code Change Proposals

Committee and subcommittee leaders made every effort to include the proponents of every code change proposal in their discussions of their proposal(s). If proponents were not available, meetings were rescheduled to accommodate the schedule of the proponents, and in cases where that was not possible, designated co-workers and/or allies were able to speak on behalf of the proponent.

V. Electric Vehicle Charging Infrastructure Proposals

EEI worked with many interested parties on the new requirements for electric vehicle (EV) charging infrastructure that has been added to the 2024 Residential and Commercial IECC. Multiple versions and multiple proposed changes of this language were fully discussed and vetted at the Residential and Commercial Energy Code subcommittees and full committees. All parties had multiple opportunities to propose, change, delete, amend, vote for, vote against, or abstain on all of the various versions.

Issues related to scope and intent, consistency with other building codes and technical standards, feasibility of implementation (feasibility), cost analysis, and technical issues were fully discussed at the subcommittee and full committee levels in open and transparent processes.

In addition, all of the votes related to EV charging provisions met the requirements for consensus at the subcommittee and full committee levels for both the Residential and Commercial IECC.

Therefore, since there were no process or procedural issues with the language or the voting, the Appeals Board should reject all appeals that remove the language on EV charging infrastructure.

Since the process was followed fairly and correctly, all of the final language on EV charging infrastructure should remain in the 2024 IECC.

Thank you for your review and consideration of our comments. Please contact Steve Rosenstock (202-508-5465, srosenstock@eei.org) if you have any questions about EEI's comments.

Respectfully submitted,

Steve Rosenstock, P.E.
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