



May 1, 2024

ICC Staff:

On behalf of the American Gas Association (“AGA”), American Public Gas Association (“APGA”), and National Propane Gas Association (“NPGA”) (collectively, “Joint Commenters”), we are writing to advise the International Code Council (“ICC”) on a number of recommendations to improve the development and appeals process for the International Energy Conservation Code – Commercial, International Energy Conservation Code – Residential, and International Residential Code – Chapter 11 (collectively, “IECC”). These comments are in response to a recent call for comment regarding the development process, appeals process, and scope and intent of the IECC.

#### **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.<sup>1</sup>

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.<sup>2</sup>

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.

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<sup>1</sup> For more information, please visit [www.aga.org](http://www.aga.org).

<sup>2</sup> For more information, please visit [www.apga.org](http://www.apga.org).

## **B. Recommended Improvements to IECC Appeals Process**

### **a. ICC Should Improve its Public Notice Procedures**

In ensuring an open and transparent IECC development process, established and reliable notice is crucial. Such notice should be consistent throughout the entire development process, including the appeals process. All notice should be explicit and inclusive of all interested parties, including members of the committee, those who have participated in the IECC development process (whether as a proponent or commenter), and those who have otherwise indicated interest in the IECC.

During the 2024 IECC process, there was a lack of sufficient notice and clear communication to all interested parties on numerous occasions. For instance, recently, only certain parties were notified of the opening of this opportunity for public comments. On April 13, 2024, such notification was sent out by email to a select number of parties, seemingly only to 2024 IECC consensus committee members. ICC staff appeared to have excluded all other interested parties who participated in the appeals process from this notice via email of public comment.

The only public notification of the opening of public comments was posted in a separate resource, ICC's *Building Safety Journal* ("BSJ"). Although the notification was posted in BSJ, inconsistencies appeared present between BSJ and other resources. Specifically, actions published in BSJ were not reflected on the ICC website in a timely manner, despite the ICC website being the formal platform for the appeals process up until the opening of public comments. Other concerns regarding notice published in BSJ are highlighted below.

To prevent exclusion of public comments, in this instance, or exclusion from notice altogether in other instances, Joint Commenters urge ICC to include everyone who was involved as an interested party on all notifications during the IECC development or appeals process. Joint Commenters also urge ICC to clarify their notification process and stick to a single, reliable process for notification. For instance, a master list of all interested parties should be maintained for each IECC development cycle. Similar to how ICC staff provided meeting notices to such a list during the development process, any relevant notice posted in BSJ should also be immediately (and consistently) shared with all interested parties. Because the interested parties are as much a part of the IECC development process as consensus committee members, notice should not be happening to the different groups at differing intervals. Improvements such as these in the notification process will ensure that all interested parties can accurately track and engage in the IECC development and appeals process.

### **b. ICC Should Establish Clear Appeals Procedures Ahead of the End of the IECC Development Process**

Further, Joint Commenters urge ICC to develop and follow a formal appeals process that is clearly outlined *before* the end of the IECC development process. This predetermined process should include an established timeframe that is strictly followed throughout the appeals process. Joint Commenters feel that a number of criticisms of this most recent appeals process could have been avoided with clear and consistent communication with appropriate notice to all interested parties.

For instance, BSJ reported that the ICC Board approved Section 4.1 of CP-1 Appeals as the relevant appeals process. However, as a very specific subsection of CP-1, many questions were left unanswered regarding what other portions of CP-1 may apply to the IECC appeals process. Additionally, BSJ also reported that the appeals process was expected to begin in early December. Shortly after, members of the consensus committees were notified that the period to appeal would end in early December. Interested parties were not made aware of this new appeals timeframe until a couple days after the committee members had been notified.

These mismatched communications and the ultimate need to extend the appeals period could have been avoided. Having a pre-established and clearly defined appeals process and associated timeframe moving forward will alleviate these hurdles that many experienced during this most recent appeals cycle and further ensure an open and transparent development and appeals process.

### **c. Scope and Intent**

ICC's request for comment and input on the 2027 scope and intent fulfills a requirement for openness and transparency needed in an ANSI-like standards and code development process. Joint Commenters support the current scope of the IECC to provide energy conservation measures regardless of energy source. The current scope and intent allow for consumers to choose the appropriate appliances and energy sources that suit their needs. Additionally, communities looking to go above and beyond the requirements of the base IECC can turn to other resources, including the optional appendices in the IECC that "incorporat[e] additional energy efficiency and greenhouse gas reduction resources," as well as existing "stretch" or "reach" codes, such as the International Green Construction Code ("IgCC"). These other tools can be adopted as appropriate by those jurisdictions to help support their own goals of grid-balancing and emission reductions without modifying the existing IECC's scope and intent.

### **d. Prior Feedback from Joint Commenters**

In response to a similar call for comments at the end of last year, Joint Commenters also provided feedback on the IECC development process on December 30, 2023. Joint Commenters would like to reiterate those comments, including our support for ICC's proposed changes to the IECC process and recommended improvements to the IECC process (prohibiting any future omnibus processes, simplifying how to propose universal changes, better informing proponents of the status of their proposals, reevaluating committee balance/interest categories, requiring all necessary data to be included in proposal, limiting when new proposals can be introduced, and complying to ANSI-approved standard development procedures). They are included with this submission as an attachment.

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

Respectfully submitted,

American Gas Association  
American Public Gas Association  
National Propane Gas Association

Attachment



December 30, 2023

ICC Staff:

On behalf of the American Gas Association (“AGA”), American Public Gas Association (“APGA”), and National Propane Gas Association (“NPGA”) (collectively, “Joint Commenters”), we are writing to urge the International Code Council (“ICC”) to adopt a number of recommendations to improve the development process for the International Energy Conservation Code – Commercial, International Energy Conservation Code – Residential, and International Residential Code – Chapter 11 (collectively, “IECC”).

### **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.<sup>1</sup>

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

## **B. Support for ICC's Proposed Changes to IECC Process**

Joint Commenters are pleased to see that ICC is actively searching out greater efficiencies in future IECC development processes. Accordingly, Joint Commenters support ICC's decision to both require a two-thirds majority vote of the consensus committee at all phases for future editions of the codes and to make Public Comment Draft #1 and #2 only open for comments on substantive technical changes made to the immediate preceding draft published for public comment. We believe that both of these changes will help to improve the efficiency and effectiveness of the code development process.

## **C. Recommended Improvements to IECC Process**

### **a. ICC Should Prohibit Any Future Omnibus Processes**

The I-code development process has always required a provision to stand on its own. An individual provision must succeed or fail on its own, and a vote on any given proposal has not historically dictated the vote on an unrelated proposal. Unfortunately, this important precedent was broken during the 2024 IECC development process in an extremely concerning and improper manner: a group of 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.

Not only were many stakeholders not made aware of these meetings, raising significant concerns surrounding the transparency of the code development process, but the opportunity to provide stakeholder input was also diminished. When viewed as a group, it was also extremely difficult, if not impossible, to evaluate the cost impact of the proposals. Accordingly, ICC should prohibit such a practice from occurring in the future to ensure transparency, fair and due process, and overall adherence to ICC's own procedures.

### **b. ICC Should Develop a More Straightforward Way to Allow for Universal Changes to the IECC**

During the 2024 IECC development cycle, there was no option within cdpaccess to indicate that a code change proponent intended for the proposed change to be universal or, said another way, that the proposed change is intended to replace all instances of a certain word or phrase with another word/phrase (or deleted). Accordingly, a proponent was then required to identify every instance of the proposed change within the relevant code and show the track changes in the proposal. Not only is this an extremely tedious process for a proponent, which could discourage some stakeholders from recommending helpful changes during the code development process, but it was

also very confusing for the consensus committees to review. For instance, even if a code change proponent noted in his/her proposal's explanation that the change was intended to be universal, the consensus committee chose to only review changes that were shown in tracked changes. This meant that some changes that were meant to be universal were not treated as such by the consensus committees.

Instead, Joint Commenters urge ICC to adopt a feature in cdpaccess that clearly and easily allows the proponent to indicate that the proposed change is meant to be universal. For instance, other code/standard development bodies have a check box in their proposal submission form for proponents to indicate whether a proposed change is a "Universal Change." This will streamline universal change proposals for both proponents and consensus committees. It may also behoove ICC to provide clarifying guidance on what qualifies as a universal change and to encourage proponents to identify all sections of code where s/he is aware that the change must be made in the spirit of encouraging efficiency without limiting the intended breadth of the proposal.

#### **c. ICC Should Develop a More Formal Process to Keep Code Change Proponents Aware of the Status of Their Proposals**

While the IECC consensus committee and subcommittee chairs worked to provide sufficient notice to code change proponents when their proposals would be discussed and potentially voted on at a meeting, failures in communication still occurred during the 2024 IECC development cycle and there was no formal process to alert a proponent to how a committee ultimately acted on his/her proposal and the associated reason statement. To prevent this in the future, Joint Commenters urge ICC to develop a platform that tracks all code change proposals and their current status. This will ensure that all committee members and code change proponents can easily track the status of the proposals. Joint Commenters also urge ICC to provide a running red-line draft throughout the development process to provide committee members and code change proponents an accurate draft as changes are approved.

#### **d. ICC Should Reevaluate Committee Balance and Interest Categories**

According to the Procedures for ICC Consensus Committee ("the Procedures"), 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.<sup>3</sup> 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

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<sup>3</sup> 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>.

altogether.<sup>4</sup> This practice should also be avoided in the future, as it raises a number of conflict of interest concerns.

#### **e. ICC Should Require All Necessary Data Be Included in Proposals**

This past IECC development cycle, there was at least one proposal submitted and placed before a consensus committee for consideration that was incomplete. For instance, this particular proposal included a table for which no values were provided. Instead, “TBD” was a value indicated in most cells of the table. This is unacceptable and should not be permitted in the future. Incomplete proposals such as this one are clearly not ripe for consideration before the IECC consensus committees. Accordingly, moving forward, ICC staff should not process incomplete proposals. If a proposal cannot be submitted in full, with all relevant table data, before the public input deadline, then that proposal should not be processed and instead resubmitted during the next public comment opportunity. Allowing incomplete proposals to be finalized well after the public comment deadline puts unnecessary pressure on the consensus committees to review what are often complex proposals with insufficient time and resources.

#### **f. ICC Should Clarify and Limit When New Proposals Can Be Introduced in the Process**

During the 2024 IECC development cycle, ICC did not provide an upfront, clear timeline for when either the public or the consensus committees could introduce new proposals. This differed from other I-code development processes, as the public is generally given only one deadline by which to submit new code change proposals, with the committees able to put forth proposals until a later date. Joint Commenters felt that the submissions deadlines were not clearly communicated during the 2024 development cycle, which made it more difficult to appropriately engage in the process. Moving forward, ICC should publish a clear timeline for the code development process, including deadlines for both public and committee-developed proposals, similar to the timeline that ICC releases for the other I-code development cycles.

At the very least, ICC should prohibit proposals that have already been rejected during the current code development cycle from being reintroduced again later in the cycle without any substantial changes from the original proposal. This happened on at least one occasion during the 2024 development cycle, and Joint Commenters are concerned that if ICC allows this practice to continue, it will only lead to unnecessary delays in the code development process. Joint Commenters believe the ICC’s proposal to make Public Comment Draft #1 and #2 only open for comments on substantive technical changes made to the immediate preceding draft published for public comment will help alleviate this concern moving forward.

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<sup>4</sup> *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>.



**g. ICC Should Work to Bring the IECC Development Process into Compliance with ANSI-Approved Standard Development Procedures**

Finally, and importantly, Joint Commenters urge ICC to bring the IECC development process into compliance with ANSI-approved standard development procedures, and even encourage ICC to strive for ANSI accreditation of the code itself. Doing so will help ensure the integrity of the code development process and ensure that the core tenants of transparency and due process are maintained.

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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,

American Gas Association  
American Public Gas Association  
National Propane Gas Association