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U.S. Environmental Protection Agency
Climate Protection Partnerships Division - ENERGY STAR
1200 Pennsylvania Ave NW
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Via Email

Re: Comments of the International Code Council on Request for Information: ISO/IEC 17065 Verification Oversight for the ENERGY STAR Certified Homes Program

The International Code Council (ICC), a member-focused nonprofit association with more than 64,000 members in the United States and abroad, is dedicated to helping the building community and the construction industry provide safe, resilient, and sustainable construction through the development and use of model codes (I-Codes) and standards used in the design, build, and compliance processes. Most U.S. states and communities, federal agencies, and many global markets choose the I-Codes to set the standards for regulating construction, plumbing and sanitation, fire prevention, and energy conservation in the built environment.

The ICC family of organizations includes the ICC Evaluation Service (ICC-ES) and the International Accreditation Service (IAS). ICC-ES is a nonprofit, accredited,¹ conformity assessment body that develops technical criteria for products, evaluates manufacturers' products through rigorous process which includes continuous compliance inspection, and then publishes reports that document code or standard compliance that are available to government officials and the public at no charge. ICC-ES has evaluated products to EPA's ENERGY STAR specifications, as well all WaterSense specifications. ICC-ES is also an EPA recognized Third Party Certifier under the formaldehyde emission standards for composite wood products.

IAS is a nonprofit public benefit corporation that has been a recognized accreditation body since 1975. It accredits testing and calibration laboratories, inspection agencies, building departments, fabricator inspection programs and International Building Code special inspection agencies. Today, IAS is one of the leading accreditation bodies in the United States, a signatory to several international mutual recognition arrangements worldwide, and one of only three accreditation organizations recognized by EPA's WaterSense, ENERGY STAR, and Formaldehyde Emission Standards programs.

ICC appreciates the opportunity to submit the following comments on the Request for Information (RFI) published October 10, 2018 (2018 RFI) in the above-named matter before the Environmental Protection Agency (EPA). Part I below provides an overview of the ICC's International Energy Conservation Code (IECC) as well two standards ICC has developed with Residential Energy Services Network (RESNET), all of which are leveraged in ENERGY STAR's certified home program. Part II provides ICC's response to the

¹ ICC-ES is accredited to both ISO/IEC 17065 and ISO/IEC 17020.



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2018 RFI. In sum, ICC supports the utilization of the ISO/IEC 17065 standard and does not believe that, in practice, that standard would require verifiers be accredited to the ISO/IEC 17020 standard.

I. The IECC and RESNET/ICC 301 and 380 Standards

ICC has developed and continues to update the IECC, which celebrated its 20th anniversary this year. The IECC, which addresses the design of energy-efficient building envelopes and the installation of energy-efficient mechanical, lighting and power systems through requirements emphasizing performance, is in use in 49 states across the United States, member nations of the Caribbean Community (CARICOM), Mexico, Saudi Arabia and Abu Dhabi. To date, the energy code has saved U.S. consumers over \$44 billion and avoided 36 million tons of carbon dioxide emissions.² Between 2010 and 2040, the U.S. Department of Energy expects that model building energy codes will save homeowners and businesses up to \$126 billion in energy costs.³

Beyond energy savings, the IECC plays a critical role in promoting safer and more resilient buildings. The IECC's building envelop provisions help control for condensation that could otherwise turn to rot, which destroys the building structure, and mold and mildew, which harm human health. Its air management requirements protect occupants from external hazards, like garage car exhaust and radon, and ensure adequate ventilation of indoor emissions from certain building materials, finishes, paints, and cleaning products. In addition, the IECC's requirements for tight construction and air sealing help prevent the spread of fire and smoke. The IECC also helps maintain livable temperatures for longer in cases of extreme weather, allowing occupants to "shelter in place." A study after Superstorm Sandy – which left 8 million people without power – showed that new energy codes can allow residents to stay in their homes for more days during blackouts triggered by heat waves or cold freezes.⁴ ENERGY STAR's certified home program leverages the IECC.

ICC and RESNET have also collaborated to publish two American National Standards Institute (ANSI)-approved standards: RESNET/ICC 301-2014, Standard for the Calculation and Labeling of the Energy Performance of Low-Rise Residential Buildings using an Energy Rating Index; and RESNET/ICC 380-2016, Standard for Testing Airtightness of Building Enclosures, Airtightness of Heating and Cooling Air Distribution Systems, and Airflow of Mechanical Ventilation Systems.

Standard 301 assists code officials, energy inspectors, and builders by providing guidance in the application of the Energy Rating Index (ERI) Compliance Alternative contained in Section R 406 of the 2015 and 2018 IECC editions. Standard 380 provides consistent test procedures that can be used as

² Building Energy Codes Program: National Benefits Assessment, 1992–2040, Pacific Northwest National Laboratory (Mar. 2014), *available at* http://www.energycodes.gov/sites/default/files/documents/BenefitsReport_Final_March20142.pdf.

³ Williams, J., DOE Field Study Methodology Provides States with Better Data on Building Energy Codes (June 7, 2018), *available at* <https://www.energy.gov/eere/buildings/articles/doe-field-study-methodology-provides-states-better-data-building-energy>.

⁴ Leigh, R., et. al., Leaks and Lives: How Better Building Envelopes Make Blackouts Less Dangerous, American Council for an Energy-Efficient Economy (2014), *available at* <https://aceee.org/files/proceedings/2014/data/papers/1-439.pdf>.



building diagnostics, in quality assurance and control, for determining compliance with codes and standards, and to determine input to energy simulations and ratings. ENERGY STAR’s certified home program utilizes both the 301 and 380 standards.

II. ICC’s Comments on the 2018 RFI

ICC supports EPA’s recognizing organizations that earn and maintain ISO/IEC 17065 “Conformity Assessment: Requirements for bodies certifying products, processes, and services” accreditation as Verification Oversight Organizations (VOOs) for the ENERGY STAR Certified Homes program. ICC believes that earning and maintaining ISO/IEC 17065 accreditation is an appropriate demonstration that an organization meets EPA’s current eligibility criteria for Demonstration of Impartial Governance for VOOs. ICC also believes that, in practice, ISO/IEC 17065 accredited certification bodies (CBs) would not necessarily require verifiers be accredited to the ISO/IEC 17020 standard so long as those verifiers demonstrate conformance to the requirements of ISO/IEC 17020.

A. The ISO/IEC 17065 Standard Satisfies EPA’s Impartiality Requirements

CBs accredited under ISO/IEC 17065 must demonstrate independence and competence. ISO/IEC 17065 requires that no commercial, financial, or other pressures impede the CB’s impartiality. The following table compares EPA’s current Demonstration of Impartial Governance requirements for VOOs against corresponding requirements under ISO/IEC 17065:

Req. #	EPA’s Demonstration of Impartial Governance Reqs. ⁵	Corresponding ISO/IEC 17065 Reqs.
1	Maintain policies to ensure that potential conflict of interest issues are identified and avoided (e.g., not being directly involved in qualifying homes to earn the ENERGY STAR label).	<p>The CB must identify risks to impartiality on an ongoing basis, including risks from relationships (related bodies) or relationships of its personnel. The CB is required to keep records of how such risks are eliminated or mitigated. The CB is also required to make sure the operation of its related bodies do not compromise impartiality.⁶</p> <p>The CB must have a mechanism (usually a committee) to advise the CB on safeguarding its impartiality. The CB needs to ensure that the mechanism itself is free of conflict, <i>i.e.</i> a balanced committee on which no single interest dominates.⁷</p> <p>The CB or organization under its control cannot be the designer, manufacturer, installer, distributor, or maintainer of the certified product/process/service. Further, neither the CB nor an organization under its control can offer</p>

⁵ U.S. Environmental Protection Agency, Recognition of Verification Oversight Organizations (Oct. 26, 2011).

⁶ ISO/IEC 17065, Clause 4.2.7.

⁷ ISO/IEC Clause 5.2.2a.

		consultancy services on the product/process/service to be certified. ⁸
2	Be a 501(c)(3) or 501(c)(6) not-for-profit corporation.	EPA’s corresponding requirement is intended to ensure impartiality. As such, the ISO/IEC 17065 requirements in #1 above are applicable. A related ISO/IEC 17065 provision requires the CB be a legal entity, or a defined part of a legal entity, such that the legal entity can be held legally responsible for its certification activities. ⁹
3	Maintain an open participation/membership policy.	The CB’s operations shall be non-discriminatory—it’s certification procedures must not be used to impede or inhibit access. It may not condition certification on the size of a client nor its membership of any association or group. The certification requirements applied must be confined to the performance characteristics required for the certification. ¹⁰
4	Be governed by a Board of Directors or Executive Committee.	EPA’s corresponding requirement is intended to ensure impartiality. As such, the ISO/IEC 17065 requirements in #1 above are applicable. Additionally, the standard requires evidence of the CB’s top management’s commitment to impartiality, through interviews of management, review of CB documentation, review of the mechanism safeguarding impartiality’s inputs, and review of actions were taken to address identified risks. ¹¹

As shown above, EPA’s requirements in some instances are more prescriptive and narrower. The ISO/IEC 17065 standard’s requirements in some instances are more comprehensive, less prescriptive, and more performance-based. For example, ISO/IEC 17065 standard’s requirements are more comprehensive than EPA requirements #1 and #3 above, and provide additional compliance pathways to satisfying EPA requirements #2 and #4 above for VOO applicants. These features of the ISO/IEC 17065 standard could allow alternative and more efficient means to satisfy EPA’s requirements and also allow a broader swath of organizations to participate as VOOs, expanding options for home verifiers.

⁸ ISO/IEC Standard 17065 Clause 4.2.6.

⁹ ISO/IEC Standard 17065 Clause 4.1.1.

¹⁰ ISO/IEC Standard Clause 4.4.

¹¹ ISO/IEC 17065 clause 4.2.5.



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Leveraging the ISO/IEC 17065 standard is also consistent with the federal government’s longstanding practice of “recognize[ing] the possible contribution of private sector conformity assessment activities,” including accreditation.¹² EPA is actively using this effective model by relying on ISO/IEC 17065 for certifiers of: WaterSense plumbing products, ENERGY STAR products, and composite wood products under Toxic Substances Control Act (TSCA) Title VI. Consistency across EPA’s programs could boost operational efficiency for the Agency.

Private sector accreditation programs allow for diversity, innovation, flexibility, and quality in certification practices. They also provide a level playing field for industry. Certification programs are less costly to the government than direct government accreditation systems, while achieving excellent compliance, offering regulators a high level of confidence. The Office of Management and Budget concurs: “When properly conducted, conformity assessments conducted by private sector conformity assessment bodies can increase productivity and efficiency in government and industry, expand opportunities for international trade, conserve resources, improve health and safety, and protect the environment.”¹³

If EPA chooses to utilize the ISO/IEC 17065 standard, the Agency should clearly document the requirements against which the CB is to be accredited. EPA’s TSCA Title VI is a good example of an instance in which the Agency has provided well-defined requirements for accreditation bodies.

Additionally, ICC believes that the Agency should permit but not require the ISO/IEC 17065 standard and that, should the standard be utilized, its use be phased in with consideration given to implications for current VOOs and verifiers.

B. ISO/IEC 17020 Accreditation is not a Requirement for Verifiers

As the 2018 RFI explains, ISO/IEC 17020 accreditation is not a requirement for verifiers: “an ISO/IEC 17065 certification body may also be an ISO/IEC 17020 accredited inspection body itself, and may outsource/sub-contract some or all of its inspection surveillance activities to non-accredited organizations,” provided that the outsourced organization/sub-contractor demonstrates conformance to the requirements of ISO/IEC 17020. These requirements pertain to confidentiality, impartiality, independence, competence of inspection body staff, inspection methods, equipment calibration, and management system requirements (e.g., internal audits, management reviews, and complaint/appeals processing).

This mechanism can ensure that verifiers adhere to the rigors of ISO/IEC 17020 without having to undergo the cost and time required to independently secure accreditation to that standard. ICC-ES is an example of a CB currently accredited to both ISO/IEC 17065 and ISO/IEC 17020 and which is presently equipped to work with verifiers, through audits and oversight, to assure adherence to ISO/IEC 17020 without imposing the additional requirement that such verifiers be accredited to ISO/IEC 17020.

¹² Office of Management and Budget Circular A-119.

¹³ *Id.*



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To the extent EPA permits the use of the ISO/IEC 17065 standard, the Agency should spell out who may hire/retain inspectors as this determination has implications for an impartiality analysis as well as on who is to ensure the competence of these inspectors.

Thank you for the opportunity to provide comment. If you have questions concerning ICC's responses, please do not hesitate to contact me. Sincerely,

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