

**INDUSTRY ADVISORY COMMITTEE
TEMPORARY INTERIM AMENDMENT (TIA) PROPOSAL**

Background

Several years ago, ICC revised the code development cycle to provide a single cycle every three years. This change stretched the time required to publish corrections to mistakes or address some “critical” issues to as long as 6 years, depending on when an issue is discovered with respect to the code cycle. This length of delay is much longer than was the case with any of the legacy codes or earlier editions of the I-Codes.

It is fundamental to the quality of ICC’s codes and ICC’s commitment to serve code users that the I-Codes remain responsive to situations where there is an urgent need to execute a code change. At the same time, it is essential that any process for handling urgent issues not become a vehicle for circumventing the normal code development process.

To investigate this concern, an Industry Advisory Committee (IAC) task group was formed, comprised of: Marshall Klein, Dave Frable, Dick Kraus, Tom Hammerberg and Jeff Shapiro. The task group proposed creation of a “temporary interim amendment” (TIA) process that includes several challenging hurdles to tightly limit its use to issues that are deemed by staff and a super-majority of technical committee members to be of a “critical nature.”

In reviewing this issue, the task group acknowledged that CP #28 Section 2.4 currently provides procedures for handling emergency issues determined by the ICC Board to be an “immediate threat to health and safety.” However, it’s clearly evident that there are cases, such as fixing mistakes, fixing code correlation issues and addressing hazards that might not be an “immediate threat,” which warrant creation of a new procedure for considering other types of urgent issues between code cycles. For example, consider that ICC currently has no method of fixing obvious errors in the code, such as swapped numbers in tables or text that was inadvertently omitted from an approved code change if the error was not picked up during the code development process.

The proposed TIA process was initially modeled after the NFPA TIA process and similar procedures used by other code and standards writing organizations that were reviewed. Certainly in the case of NFPA’s process, there is a long history of this type of process working as intended without abuse.

It should be noted that, unlike the current emergency procedure in CP #28 Section 2.4, the proposed TIA process makes significant use of the responsible code development committee to rely on the committee’s technical expertise in determining the technical merit and critical nature of a proposed change. This also provides an interim responsibility for code development committees so that the committees have an official role in between code cycles.

Draft #1: The first draft of the proposed ICC TIA process was presented by the task group to the IAC at the March 23, 2010 meeting. Following the meeting, Draft #1 was distributed via email to the full IAC on March 26th with a request for comments. A single comment was received, from the American Iron and Steel Institute (AISI), and that comment was presented to the full IAC at the September 14th, 2010 meeting.

Draft #2, At the September 14, 2010 IAC meeting, the IAC voted to ballot a second draft of the TIA process, which incorporated the AISI comments. In accordance with IAC procedures, the ballot was canvassed over a period of 30 days. The ballot alternatives were:

- Yes
- Yes with reservations. This requires full and sufficient basis for the vote.
- No. This requires full and sufficient basis for the vote. Specific suggestions for change are to be provided if those changes would change the negative to the affirmative.
- Not voting

The ballot was successful, and that allowed the IAC's proposed TIA process to be subsequently forwarded to the ICC Board for their consideration. Rather than considering the proposal on its individual merits, the Board directed that the TIA process proposal become a consideration among a larger review of the code development process that was underway at that time. Unfortunately, the TIA proposal got lost among many other process changes being considered, and no action was ever taken on the proposal.

Since that time, it has become increasingly evident that there needs to be some way for ICC to address urgent issues that may not rise to the level of an "immediate threat to health and safety" but nevertheless warrant a possible interim change to a code to correct a clear error or address changes that warrant an urgent amendment.

Accordingly, a Draft #3 has been created to update Draft #2 as needed to accommodate changes at ICC that have occurred since the previous draft was developed. Draft #3 also streamlines the proposed process by eliminating the prior recommendation to include a review/ballot by ICC's membership council governing committees on all TIA proposals. That review was seemingly unnecessary, given that the responsible code development committee should be sufficiently qualified to make a valid recommendation and given that the ICC Board must subsequently approve any amendment that is recommended for approval by the committee.

Another revision incorporated into Draft #3 is retaining the current ICC Board emergency procedure in CP #28 Section 2.4. Draft #2 had consolidated this procedure into the proposed TIA process, but feedback previously received from the ICC Board suggested that the ICC Board wished to retain their current authority to act independently when considered necessary.

Draft #3 was offered to the IAC for consideration and comment at the IAC's meeting on 10/13/17 with the hope that a new recommendation can be finalized and advanced for consideration by the Board for adoption at the earliest opportunity. The IAC made several amendments to the draft, and with these changes, Draft #4 was unanimously accepted by the IAC members in attendance, which exceed the required meeting quorum for official action. IAC then agreed to convey Draft #4 to the Codes and Standards Committee (CSC), with the intent of having all ICC membership council governing committee's receive a copy for review and comment via their representatives on the CSC.

Note: TIA issues addressed by the proposed process are not issues that can be addressed by errata. Errata are limited to only those issues that are not published correctly based on a staff processing error. Things that are incorrect, but were published as submitted by the proponent or as acted on by the code development committee are not errata and would require the TIA process to fix.

IAC BALLOT – DRAFT 4
(legislative revisions are vs. current CP #28 text)

Revise Section 2.4 of CP #28 as follows:

2.4 Interim Code Amendments: All revisions to the international Codes shall be processed in accordance with other sections of this Council Policy except for Emergency Actions by the ICC Board complying with Section 2.4.1 and Temporary Interim Amendments complying with Section 2.4.2.

2.4.1 Emergency Actions by the ICC Board~~Procedures:~~ **2.4.1 – Scope:** Emergency actions by the ICC Board are limited to those issues representing an immediate threat to health and safety that warrant a more timely response than allowed by the Code Development Process schedule.

2.4.1.12 Initial Request: A request for an emergency action shall be based upon perceived immediate threats to health and safety and shall be reviewed by the Codes and Standards Council for referral to the ICC Board for action with their analysis and recommendation.

2.4.1.23 Board and Member Action: In the event that the ICC Board determines that an emergency amendment to any Code or supplement thereto is warranted, the same may be adopted by the ICC Board. Such action shall require an affirmative vote of at least two-thirds of the ICC Board.

The ICC membership shall be notified within ten days after the ICC Boards' official action of any emergency amendment. At the next Annual Business Meeting, any emergency amendment shall be presented to the members for ratification by a majority of the Governmental Member Voting Representatives and Honorary Members present and voting.

All code revisions pursuant to these emergency procedures and the reasons for such corrective action shall be published as soon as practicable after ICC Board action. Such revisions shall be identified as an emergency amendment.

Emergency amendments to any Code shall not be considered as a retro-active requirement to the Code. Incorporation of the emergency amendment into the adopted Code shall be subjected to the process established by the adopting authority.

2.4.2 Temporary Interim Amendments (TIA)

2.4.2.1 Submittal. Anyone may propose a TIA by providing the following information:

- a) Name of submitter
- b) Contact information
- c) Submitters representation
- d) Date
- e) Relevant section(s) and code edition(s) under consideration
- f) Proposed modifications with text changes identified using underlines for new text and strikethroughs for deleted text
- g) A statement that substantiates the need for proposed changes and why this proposed submission is of a critical nature in accordance with Section 2.4.2.3.

2.4.2.2 Preliminary Review. A Tentative Interim Amendment (TIA) to any Code will only be processed if 1) The senior staff member of Technical Services determines, after review and consultation with the relevant Code Development Committee chair(s), that the proposed TIA appears to be of a critical nature requiring prompt action based on the criteria specified in Section 2.4.2.3, and 2) The proposed TIA has been endorsed by at least two members of the Code Development Committee(s) responsible for the affected code section(s). If processed, the question of critical nature shall be further considered by the Code Development Committee(s). The text of a proposed TIA may be processed as submitted or may be changed with the approval of the submitter.

2.4.2.3 Determination of Critical Nature. Qualification for critical nature shall be based on one or more of the following factors:

- (a) The proposed TIA corrects an error or an omission that was overlooked during a regular code development process.
- (b) The proposed TIA resolves a conflict within an individual Code or a conflict involving two or more ICC Codes.
- (c) The proposed TIA mitigates a previously unknown hazard.

2.4.2.4 Code Development Committee and Public Review. The proposed TIA that meets the provisions in Sections 2.4.2.2 and ~~2.4.232~~ 2.4.2.3 shall be submitted to the Code Development Committee(s) responsible for the affected section(s) for a ballot and comment period of 30 calendar days. The Committee(s) shall be separately balloted on both the technical merit of the TIA and whether the TIA satisfies the critical nature criteria. Negative votes in the initial ballot, if any, shall require a reason statement and shall be circulated to the full Committee to allow initial ballot votes to be changed.

A Committee recommendation for approval shall require an affirmative vote of at least three-fourths of members who voted, on both technical merit and critical nature. The number of affirmative votes shall also require at least 50% of all Committee members.

Committee members eligible to vote shall include individuals who are members of the Committee on the date of ballot distribution. The following shall be omitted from the vote calculation:

- a) Committee members who have abstained.
- b) Committee members whose negative ballots do not include a statement conveying the reason for casting a negative vote.
- c) Committee members who do not return their ballots prior to the announced ballot return deadline.

TIA's that achieve the required number of affirmative votes on both technical merit and critical nature are approved for further processing in accordance with Sections 2.4.2.5 through 2.4.2.9. TIA's that do not achieve the required number of affirmative votes on both technical merit and critical nature are rejected.

2.4.2.5 Publication of Proposed TIA for Public Comment. A TIA that is approved in accordance with Section 2.4.2.4 shall be published by ICC in appropriate media with a notice inviting public comments on the proposed TIA. The public comment period shall be at least 30

calendar days from the date of publication. When a proposed TIA revises text that was changed in the most recent code development cycle, the TIA public comment notice shall also be directly provided to submitters of proposals and public comments to the affected section in the most recent code development cycle

2.4.2.6 Additional Code Development Committee Review. All public comments shall be circulated to the Code Development Committee for a 30-calendar day ballot and comment period allowing an opportunity for Committee members to change votes taken prior to the public comment period. If any votes are changed to negative, negative votes shall be circulated to the full Committee, followed by a final ballot following the voting procedures Section 2.4.2.4.

Approved TIAs shall be forwarded to the ICC Board with a staff report that includes all public comments, ballots, committee member comments on ballots and a recommendation by staff on which code editions should be affected by the TIA.

2.4.2.7 Action of the ICC Board. The ICC Board shall review the material submitted in accordance with Section 2.4.2.6 at the next ICC Board meeting. Adoption of a TIA shall require an affirmative vote of at least two-thirds of the ICC Board.

2.4.2.8 Effective Date, Publication and Applicability of TIA. TIAs that are approved by the ICC Board shall become effective 30 calendar days after Board approval. ICC staff shall, by an appropriate method, publish approved TIAs and ensure that approved TIAs are distributed with future sales of affected codes. A TIA shall apply to Code editions specified by the ICC Board.

TIAs shall not be considered as retro-active requirements. Adoption or recognition of TIAs shall be subject to processes or policies established by the adopting authority.

2.4.2.9 Subsequent Processing. A TIA shall automatically become a code change proposal in the following code cycle.