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April 5, 2012

**California
Association
Sheet Metal
and
Air Conditioning
Contractors
National
Association**

Ms. Martha Brook
California Energy Commission
Office of High Performance Buildings and Standards Development
1516 Ninth Street
Sacramento, CA 95814

**Re: 45-Day Comment: Docket # 10-BSTD-01 & 12-BSTD-01: 2013
Building Energy Efficiency Standards: Data Registry**

Cyndi Marshall
Executive Vice President

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Randy Attaway
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David Lawson
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Stan Capelli
Treasurer

Brad Young
Secretary

Mike Pence
Immediate Past President

Dear Ms. Brook:

Please find enclosed an addendum to our April 2, 2012 letter that was sent to you and included in Dockets 10-BSTD-01 and 12-BSTD-01. That letter detailed our concerns with, and proposed amendments to, specified revisions proposed by the California Energy Commission for the Building Energy Efficiency Standards contained in the California Code of Regulations, Title 24, Part 6. After our submittal of the letter, it became clear to us that an additional provision of the rulemaking has provoked concern for many important stakeholders. This addendum explains the emerging issues with that provision and proposes an amendment that would remedy that concern.

Thank you again for your attention to the concerns of the California Association of Sheet Metal and Air Conditioning Contractors' National Association (CAL SMACNA) regarding this important rulemaking. We appreciate the responsiveness and candor of all of the CEC staff with whom we have worked so far.

CAL SMACNA is a non-profit trade association representing over 600 union sheet metal and air conditioning contractors who employ more than 25,000 men and women throughout the state of California. These contractors perform commercial and residential heating, ventilating, and air conditioning, manufacturing, and testing and balancing.



Please find attached our review, as well as our proposed amendments. We look forward to personally discussing this proposed revision, as well as those discussed in our April 2 letter, with you and your staff prior to the end of the comment period.

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Sincerely,

Cyndi Marshall
Executive Vice President



Data Registry Proposal and Proposed Amendment

The Energy Commission's proposed revision would establish a process of the electronic registration and retention of Title 24 compliance documents that would include requiring contractors responsible for "*all nonresidential buildings*" to submit their documents to a Home Energy Rating System (HERS) Provider, or a data registry that is approved by the Energy Commission.

CAL SMACNA appreciates and supports the CEC's goal of standardizing electronic submittal of Title 24 compliance documents, for both residential and nonresidential buildings. Increasing efficiency and access to Title 24 compliance documents is a necessary step toward enforcing compliance among all industry stakeholders and analyzing data for the development of sound policy by CEC and other public agencies.

While CAL SMACNA fully supports the designation of data registries and requiring nonresidential contractors to submit their compliance documents to those data registries, we are deeply concerned by the specific inclusion of HERS Providers (an organization designed exclusively for *home* energy raters) into the compliance document registration for *nonresidential* buildings. CAL SMACNA believes the current draft language creates ambiguity and gives rise to unnecessary confusion about the ultimate role the HERS system will play in nonresidential documentation.

Therefore, CAL SMACNA proposes the following changes to the proposed revision:

1. Remove the term HERS Provider from the definition of "Nonresidential Data Registry" (Section 10-102):

NONRESIDENTIAL DATA REGISTRY is a data registry that is maintained by ~~a HERS Provider or~~ a Registration Provider approved by the Commission, that provides for registration, when required by Part 6, of all nonresidential compliance documentation. However, nonresidential data registries may not provide for registration of nonresidential Certificates of Verification.

2. Remove the term HERS Provider from requirements for Nonresidential Data Registries and persons responsible for nonresidential (Section 10-103[a][1][D]):

Beginning on January 1, 2015, contingent upon approval of data registry(s) by the Commission, all nonresidential buildings, high-rise residential buildings, and hotels and motels, when designated to allow use of an occupancy group or type regulated by Part 6, the person(s) responsible for the Certificate(s) of Compliance shall submit the Certificate(s) for registration and retention to ~~a HERS provider data registry, or~~ a data registry approved by the Commission. The submittals to the ~~HERS provider data registry or~~ approved data registry shall be made electronically in accordance with the specifications in Reference Joint Appendix JA7.

Contingent upon availability and approval of an electronic document repository by the Executive Director, Certificate of Compliance documents that are registered and retained by ~~a HERS provider data registry or an~~ approved data registry shall also be automatically transmitted by the data registry, to an electronic document repository for retention in accordance with the specifications in Reference Joint Appendix JA7.



CAL SMACNA shares a widely-held view that the demarcation between HERS and nonresidential is crucial for purposes of recognizing the fundamental differences between residential and nonresidential buildings, and shaping future policy and the expectations of industry in accordance with those fundamental differences. As you know, in recent months, several other proposals have been raised due to the confusion and anxieties among Title 24 stakeholders about a seemingly blurred demarcation between a *home* energy rating system and *nonresidential* buildings. These anxieties' only amelioration has been CEC's public recognition that a home is an utterly different matter from any one of the commercial or industrial structures that comprise nonresidential buildings. It is in this context that CEC's explicit inclusion of HERS Providers in the data registry process for nonresidential buildings has proven to be further provocative, confusing and, we believe, unnecessary.

We believe it is unnecessary to specifically designate HERS Providers as eligible to operate as Nonresidential Data Registries because CEC's proposed revision establishes a process, outlined in Appendix JA7, for organizations to receive CEC's approval to operate as data registries for *nonresidential*. As such, any organization showing the competencies and facilities to provide the services of a Nonresidential Data Registry should be able to pass the Appendix JA7 process, whether or not it also operates as a HERS Provider.

For these reasons, we do not see the purpose in providing a specific carve-out for HERS Providers in the definition of a Nonresidential Data Registry

Finally, CAL SMACNA understands that the CEC does not intend to include HERS raters in the nonresidential *verification* process, however, we believe the insertion of HERS into the nonresidential compliance registry process upsets the policy distinction between HERS/residential and the higher level needs of nonresidential structures. CAL SMACNA therefore proposes removing HERS Providers from all language relating to nonresidential.