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NEMI Comments on 2028 Pre-Rulemaking - Audit, ATSR, ATT Commissioning, and ATT Field Verification

The National Energy Management Institute (NEMI) submits the attached comments on the June 25, 2026 Day 3 staff workshop for the 2028 Energy Code Pre-Rulemaking, Docket 25-BSTD-03. Please see the attached document for the full comments.

Additional submitted attachment is included below.

In the matter of 2028 Building Energy Efficiency Standards Pre-Rulemaking

Docket No. 25-BSTD-03

Comment in Support of the Mechanical ATT and ATE Equitable Audit Process

Submitted by: Steven Winstead - Western Region Representative - CA

swinstead@nemionline.org

Submitted to: California Energy Commission Docket Unit

1516 Ninth Street, MS-4 - Sacramento, CA 95814

Submission Date: July 16th, 2026

The National Energy Management Institute (NEMI) submits this comment in strong support of the Acceptance Test Technician Equitable Audit Process presented during the June 25, 2026 Day 3 staff workshop and docketed by NEMI at TN 270027. NEMI appreciates that Commission staff presented this measure and that it reflects the equitable sampling approach NEMI has advanced.

Why NEMI Supports the Measure

The current requirement of one shadow audit per Acceptance Test Employer (ATE) per code cycle imposes a disproportionate logistical burden as the program scales. Coordinating seventy or more individual training facility audits within a single code cycle strains ATTCP resources, disrupts contractor project schedules, and places significant coordination demands on Joint Apprenticeship and Training Committees. A minimum five percent (5%) sampling rate of all active ATEs achieves meaningful, statistically representative quality oversight while distributing the audit burden equitably across all participants. It preserves program integrity without penalizing scale.

Two Provisions NEMI Asks the Commission to Preserve

As the measure moves from workshop presentation into proposed code text, NEMI requests that two provisions in the TN 270027 language be retained in full, because they are essential to the integrity of the Training Facility Audit:

1. Facility configuration. The ATTCP training facility must be configured to allow auditing of all functional tests for which the ATT is certified. Without this requirement, a facility audit could be limited to a subset of tests and would not verify the technician's full scope of certification.
2. Separation from recertification. Shadow audits must be conducted separately from, and in addition to, any testing used for ATT recertification. Combining the two would allow a single event to satisfy two distinct oversight functions and would dilute the value of both.

Supporting Clarifications

NEMI also supports the accompanying clarifications: correcting the Desk Audit reference so it accurately identifies the ATE whose completed compliance forms are reviewed, and confirming that an ATTCP may use either site or training facility audits at its discretion, or may standardize on one format for all technicians under its certification.

Consistency of the Desk and Site Audit Floor

NEMI's docketed language sets the Desk Audit and Site Audit at no less than one project per ATE per code cycle, with the Desk Audit applying to ATEs that have performed a minimum of five projects. NEMI requests that the adopted language retain this per-ATE project floor so that every ATE remains subject to direct desk and site review each cycle, while the five percent sample governs the Training Facility Audit specifically.

Conclusion

NEMI supports adoption of the Equitable Audit measure as docketed at TN 270027 and requests that the two provisions identified above be carried into the final code language. This measure imposes no cost increase, requires no new systems, and relies on Title 24 compliance infrastructure that is already in place.

In the matter of 2028 Building Energy Efficiency Standards Pre-Rulemaking
Docket No. 25-BSTD-03
**Comment in Opposition to the Proposed Acceptance Test Summary Report
(ATSR) Requirement**

Submitted by: Steven Winstead - Western Region Representative - CA
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Submitted to: California Energy Commission Docket Unit
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Submission Date: July 16th, 2026

The National Energy Management Institute (NEMI) submits this comment in opposition to Measure 3 of the Proposed Updates to ATTCP Program Requirements, which would require ATTCPs to generate an Acceptance Test Summary Report (ATSR) and provide Authorities Having Jurisdiction (AHJs) access to view it, at Sections 10-103.1(c)3Hiii and 10-103.2(c)3Hiii (TN 270679). NEMI respectfully requests that this measure be removed from the 2028 proposal.

NEMI Understands and Shares the Goals Behind the Measure

NEMI recognizes the legitimate objectives staff described: authenticating that Nonresidential Certificate of Acceptance (NRCA) forms originate from the ATTCP database, giving the AHJ a single view of the status of a project's acceptance tests, reducing fraud, and shortening AHJ review time. Those are worthwhile aims, and NEMI does not dispute them.

Why a Summary Report Is the Wrong Instrument at This Stage

The concern is not the goal but the effect. The acceptance test program has been in place for years, yet AHJ familiarity with it remains abysmal, and many AHJs are still developing a working understanding of the acceptance tests themselves. In that environment, a single summary document does not supplement form-level review; it displaces it. When an AHJ is handed one report that represents the status of every acceptance test on a project, the predictable outcome is that the AHJ checks the summary and stops examining the underlying NRCA forms. The summary becomes a substitute for verification rather than an aid to it.

NEMI Is Seeing This Same Dynamic Now

This is the same problem NEMI is working through in San Francisco, where an affidavit form is used for each acceptance test discipline. The affidavit becomes the document the reviewer checks, and attention to the actual acceptance tests fades. The ATSR would institutionalize that pattern statewide. AHJs are already working to build capacity around the program, and what strengthens compliance at this stage is direct engagement with the acceptance test forms, not a layer of abstraction above them.

The Intent Would Be Sound in a More Mature Environment

If AHJs already understood the program thoroughly and compliance review were consistently rigorous, a summary report would be a harmless convenience. That is not the current environment. Until AHJ familiarity with acceptance testing is well established, a summary report functions as a crutch that undermines real verification rather than improving it.

Recommendation

NEMI recommends that Measure 3 be removed from the 2028 proposal. Authentication and database provenance can be addressed by preserving AHJ access to the actual NRCA forms and their completion status, which meets the anti-fraud objective without creating a summary document that supplants review of the underlying tests.

In the matter of 2028 Building Energy Efficiency Standards Pre-Rulemaking

Docket No. 25-BSTD-03

Comment in Support of the Acceptance Test Technician Commissioning Proposal

Submitted by: Steven Winstead - Western Region Representative - CA

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Submitted to: California Energy Commission Docket Unit

1516 Ninth Street, MS-4 - Sacramento, CA 95814

Submission Date: July 16th, 2026

The National Energy Management Institute (NEMI) submits this comment in strong support of the Acceptance Test Technician Commissioning proposal presented during the June 25, 2026 Day 3 staff workshop (TN 270680). The proposal would add certified lighting controls and mechanical Acceptance Test Technicians (ATTs) to the required commissioning design team for newly constructed nonresidential buildings, and would clarify the definitions of Design Reviewer and Design Team, affecting Section 201 [100.1(b)] and Section 1001 [120.8].

Why NEMI Supports the Measure

Placing certified mechanical and lighting controls ATTs on the design team is precisely the direction the industry needs. Acceptance testing verifies that installed lighting and mechanical equipment performs as the Energy Code requires. Bringing that expertise onto the design team early, rather than only at the testing stage, allows compliance issues to be identified and resolved during design and installation rather than discovered at the end of construction. This directly improves Energy Code compliance for lighting and mechanical systems, which is the stated purpose of the measure.

The Measure Is Low Burden and Flexible

NEMI notes several features that make the measure practical to implement:

- The ATT's design team role is appropriately limited to reviewing the designs related to acceptance testing, not the full design.
- One qualified individual may serve in more than one role, including design reviewer, design engineer, installation contractor, and the ATT performing the required acceptance tests. This avoids adding personnel where existing team members already hold the certification.
- Staff estimate the cost as ranging from zero to the hourly wage of the ATT, with no expected economic impact, because certified ATTs are already available for direct hire like any other design professional.

NEMI Supports the Definitional Clarifications

NEMI also supports the clarifications to Design Reviewer and Design Team, which give the design team membership requirement a clear and administrable structure.

Conclusion

NEMI strongly supports adoption of the Acceptance Test Technician Commissioning proposal. It strengthens compliance for the very systems that acceptance testing is designed to verify, it imposes minimal cost, and it uses the existing certified ATT workforce.

In the matter of 2028 Building Energy Efficiency Standards Pre-Rulemaking

Docket No. 25-BSTD-03

Comment Requesting That Certified ATTs Be Authorized to Perform High-Rise Multifamily Dwelling-Unit Field Verification, Including Sampling

Submitted by: Steven Winstead - Western Region Representative - CA

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Submitted to: California Energy Commission Docket Unit

1516 Ninth Street, MS-4 - Sacramento, CA 95814

Submission Date: July 16th, 2026

The National Energy Management Institute (NEMI) requests that the Commission expand the role of certified Acceptance Test Technicians (ATTs) in the field verification and diagnostic testing of high-rise multifamily dwelling units, specifically the enclosure air leakage verification (NRCV-MCH-24-H), the indoor air quality and mechanical ventilation verification (NRCV-MCH-27-H), and the local mechanical exhaust verification (NRCV-MCH-32-H). NEMI requests two changes: first, that a certified ATT be recognized as a standing, equally authorized option alongside the ECC rater for these verifications, at the builder's election, rather than only as an alternative subject to case-by-case enforcement-agency approval; and second, that ATT-performed verification be eligible for the same sampling procedures available to ECC raters under NA1.6. The affected provisions are NA1.9, NA1.9.1, and NA1.6, with the underlying test procedures at NA2.2 (mechanical ventilation, including the kitchen and local mechanical exhaust verification at NA2.2.4.1.4) and NA2.3 (dwelling unit compartmentalization), and the verification triggers at Section 160.2(b)2, including the local mechanical exhaust requirement at Section 160.2(b)2Avi.

These Are Nonresidential-Scope Buildings

High-rise multifamily buildings of four or more habitable stories comply with the nonresidential form set and are administered under the Reference Nonresidential Appendices. Section 160.2 directs that field verification and diagnostic testing of attached dwelling units in buildings of four or more habitable stories use the procedures in Nonresidential Appendices NA1 and NA2. These are the same appendices that govern the mechanical acceptance testing that certified mechanical ATTs already perform in these very buildings. It is therefore incongruous that the default verifier for these nonresidential-scope tests is the ECC rater, a credential rooted in the residential Home Energy Rating System, rather than the certified mechanical ATT who already operates within the nonresidential appendix framework.

ATTs Are Already Recognized as Competent to Perform This Work

The Energy Code already contemplates ATTs performing these verifications. NA1.9 provides that when HERS field verification and diagnostic testing is required under NA1 and NA2

procedures, compliance may alternatively be satisfied by a certified ATT. The compliance manual's Table 11-21 and the Commission's required-tests tables already list the dwelling-unit ventilation, indoor air quality, and kitchen and local mechanical exhaust verifications as performable by either an ECC rater or a certified mechanical ATT. The competence question is therefore settled: the code recognizes ATTs as qualified to run the NA2.2 ventilation and local exhaust procedures and the NA2.3 enclosure leakage procedure. What remains is an unnecessary set of limitations on when and how they may do so.

The Current Limitations Do Not Reflect Any Difference in the Work

Two limitations undercut the ATT path today. First, under NA1.9.1 the ATT may perform the verification only at the discretion of the enforcement agency, and the builder's choice of an ATT must be approved by the AHJ. Second, NA1.9.1 makes systems verified by an ATT ineligible for the NA1.6 sampling procedures that an ECC rater may use. The result is that the identical test, run under the identical NA2 procedure, may be sampled when performed by a rater but must be performed at 100 percent when performed by an ATT, and may be refused outright at the AHJ's discretion. Neither limitation reflects any difference in the test method or in the qualifications of the person performing it. Both impose a penalty on the ATT path that is unrelated to verification quality.

Requested Changes

1. Amend NA1.9.1 so that a certified ATT is a standing, equally authorized option alongside the ECC rater for the field verification and diagnostic testing of high-rise multifamily dwelling units under Section 160.2, at the builder's election, rather than an alternative contingent on case-by-case enforcement-agency approval. At a minimum, the enclosure air leakage verification (NRCV-MCH-24-H), the indoor air quality and mechanical ventilation verification (NRCV-MCH-27-H), and the local mechanical exhaust verification (NRCV-MCH-32-H) should be performable by either an ECC rater or a certified ATT.
2. Remove the NA1.9.1 exclusion that bars ATT-performed verification from the sampling procedures of NA1.6, so that ATT-performed verification is eligible for the same sampling available to ECC-rater-performed verification, subject to the same conditions.

Justification

Certified mechanical ATTs are trained, tested, and certified through Commission-approved ATTCPs, and they already perform the acceptance testing that anchors nonresidential mechanical compliance, including in these same high-rise multifamily buildings. The NA2.2 and NA2.3 procedures are within their demonstrated scope. Recognizing the ATT as an equal verifier expands the pool of qualified professionals available for high-rise multifamily projects, improves coverage in areas underserved by ECC raters, and aligns the verifier with the nonresidential appendix framework that already governs the work. Allowing sampling on the ATT path removes an arbitrary cost penalty and places the two verifier types on equal footing.

Neither change reduces oversight, because both preserve the same procedures, the same pass and fail criteria, and the same registration and documentation requirements.

Conclusion

NEMI requests that the Commission recognize certified ATTs as fully authorized to perform the enclosure air leakage, the indoor air quality and mechanical ventilation, and the local mechanical exhaust field verifications for high-rise multifamily dwelling units, on equal footing with ECC raters and with equal access to sampling under NA1.6.