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CHEERS Comment 25-BSTD-03 ECC-Rater Site Photograph

Additional submitted attachment is included below.

CHEERS

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November 3, 2026

California Energy Commission
Docket Unit, MS-4
Docket No. 25-BSTD-03
715 P Street
Sacramento, California 95814

Re: Comments on Pre-Rulemaking Draft Regulatory Text for the 2028 Energy Code (TN 273088)
Section 103.3.2 Item 1.1.8.3.3: ECC-Rater Site Photograph

Dear Commissioners and Staff:

California Home Energy Efficiency Rating Services (CHEERS), as an approved ECC-Provider, supports the Commission's inclusion of an ECC-Rater site photograph requirement in the pre-rulemaking draft regulatory text for the 2028 Energy Code. The provision gives ECC-Providers and the Commission an objective means of confirming compliance with presence and signatory requirements that already exist in the ECC program regulations. CHEERS respectfully offers the following comments to align the draft language with those existing requirements and to support consistent implementation across ECC-Providers.

1. The Photograph Documents Compliance with Existing Requirements

The ECC program regulations already require that the ECC-Rater who certifies a field verification or diagnostic test be physically present at the project site:

- Section 103.3.5 Item 2.5 [Section 10-103.3(e)2E] requires ECC-Raters to be present and personally participate in any field verification and diagnostic test.
- Section 103.3.2 Item 2.3.8 [Section 10-103.3(b)2Ci] prohibits the use of technicians who are not certified ECC-Raters unless they are directly supervised by the ECC-Rater in person on the project site.
- Section 103.3.2 Item 2.3.9 [Section 10-103.3(b)2Cii] provides that no person other than the ECC-Rater who performed or directly supervised the field verification and diagnostic test may sign the Certificate of Verification.

The data registry records which ECC-Rater registered a Certificate of Verification. It does not record who was physically present at the project site. When an ECC-Rater's presence is questioned in a quality assurance review or complaint investigation, the ECC-Provider currently has no objective record to rely on. Certified ECC-Raters have repeatedly raised concerns that some field verification is being performed by uncertified personnel under a certified ECC-Rater's credentials, contrary to the requirements above.

The site photograph supplies that record. It does not establish a new standard of conduct for ECC-Raters, and it places no requirement on the dwelling, the builder, or the homeowner. It documents compliance with requirements already in effect.

2. The Requirement Should Apply to Every Certificate of Verification

The draft places the photograph at Section 103.3.2 Item 1.1.8.3.3, within the ECC-Rater of Record provisions,

and requires it to be registered only with a failed field verification or diagnostic test. The presence requirement in Section 103.3.5 Item 2.5 applies to every field verification and diagnostic test, whether passing or failing. Limiting the photograph to failed tests leaves passing Certificates of Verification, which are the certificates that close projects and support permit finalization, without a record of the ECC-Rater's presence.

A photograph captured at each site visit and linked to every Certificate of Verification from that visit fully serves the purpose of the draft provision. When a test fails, the photograph identifying the ECC-Rater is already on record, which provides the documentation the ECC-Rater of Record provisions rely on.

CHEERS recommends relocating the requirement to a new Item 2.4 within Section 103.3.2 Item 2, immediately following the signatory authority requirements it supports. This location keeps the requirement alongside the provisions it implements and does not affect existing cross-references to Item 1.1.8.

3. Implementation Provisions

The recommended language includes the following provisions to keep the requirement low-burden for ECC-Raters and consistent across ECC-Providers:

- **One photograph per site visit.** A single photograph covers all Certificates of Verification the ECC-Rater registers from that site visit. ECC-Raters do not take a separate photograph for each certificate.
- **Identification of the certifying ECC-Rater.** The photograph must depict the ECC-Rater who registers the linked Certificates of Verification, consistent with Section 103.3.2 Item 2.3.9.
- **Capture before registration.** For a passing Certificate of Verification, the photograph must be captured before the certificate is registered.
- **Failed tests are not delayed.** Registration of a failed test is never delayed or refused for lack of a photograph, so the requirement does not discourage the registration of failures.
- **Quality assurance use.** The photograph timestamp is evidence of the date of the ECC-Rater's presence. A discrepancy is not by itself a violation; it is information available to the ECC-Provider in quality assurance review under Section 103.3.4 Item 5.
- **Uniform registry enforcement.** Each ECC-Provider's data registry must decline registration of a passing Certificate of Verification without a linked photograph, consistent with the existing prohibition in Section 103.3.2 Item 2.1 [Section 10-103.3(b)2A] on accepting incomplete information. Uniform enforcement ensures the requirement applies equally to all ECC-Raters regardless of ECC-Provider.
- **ECC-Rater identity documentation.** ECC-Providers maintain documentation sufficient to verify each ECC-Rater's identity, so the photograph can be compared against a reference. This is consistent with the ECC-Provider's existing responsibility to certify ECC-Raters under Section 103.3.4 Item 2 [Section 10-103.3(d)2].

4. Recommended Language

CHEERS recommends deleting Section 103.3.2 Items 1.1.8.3.3 through 1.1.8.3.3.4 and adding the following as Section 103.3.2 Item 2.4:

> **2.4 ECC-Rater Site Photograph.** When performing field verification or diagnostic testing at a project site, the ECC-Rater shall capture one photograph at the project site during that site visit. Each Certificate of

Verification registered by the ECC-Rater, whether passing or failing, shall be linked to the photograph from the site visit at which the field verification or diagnostic testing was performed. One photograph may be linked to all Certificates of Verification registered by the ECC-Rater from the same site visit. The photograph shall conform to all of the following:

2.4.1 The photograph must clearly depict the ECC-Rater who registers the Certificates of Verification linked to it.

2.4.2 The photograph must be taken at or adjacent to the project site and include at least one background element recognizable at the project site.

2.4.3 The photograph must retain the geotag and timestamp recorded at the time of capture.

2.4.4 For a passing Certificate of Verification, the photograph shall be captured before the Certificate of Verification is registered.

2.4.5 Registration of a failed field verification or diagnostic test shall not be delayed or refused because a photograph has not been linked.

2.4.6 The timestamp of the photograph shall be considered evidence of the date of the ECC-Rater's presence at the project site. A discrepancy between the photograph and other project records shall not by itself constitute a violation. The ECC-Provider may use the photograph in quality assurance review under Section 103.3.4 Item 5 [Section 10-103.3(d)5].

2.4.7 An ECC-Provider's data registry shall not accept registration of a passing Certificate of Verification that is not linked to a photograph meeting the requirements of Section 103.3.2 Item 2.4.

2.4.8 ECC-Providers shall maintain documentation sufficient to verify the identity of each ECC-Rater certified under their program.

CHEERS appreciates the Commission's consideration of these comments.

Respectfully,

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