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December 16, 2022

Submitted via Electronic Docket

California Energy Commission
Docket Unit, MS-4
Docket No. 22-BSTD-03
715 P Street
Sacramento, California 95814

Re: **Comments of the Joint Committee on Energy and Environmental Policy on the Draft Staff Report and Workshop for 2022 Update of the Field Verification and Diagnostic Testing Requirements**

Dear Commissioners and Staff:

We write on behalf of the Joint Committee on Energy and Environmental Policy (“JCEEP”) to comment on the Draft Staff Report for the 2022 Update of the Field Verification and Diagnostic Testing Requirements¹ (“FV&DT Draft Staff Report”) and the accompanying workshop held on November 15, 2022. JCEEP recommends that the Commission modify the FV&DT program to allow certified acceptance test technicians (“ATTs”) to perform nonresidential FV&DT without pre-approval by the local enforcement agency and permit the use of group sampling procedures.

I. INTRODUCTION

JCEEP is an advocacy organization that represents the California sheet metal workers’ local unions and over 25,000 technicians working for over 600 contractors throughout California. JCEEP’s mission is to promote responsible environmental and indoor air quality and energy policy in California as it pertains to and impacts the heating, ventilation, and air conditioning (“HVAC”) industry. JCEEP was formed on the premise that air handling systems need to be designed,

¹ California Energy Commission, Draft Staff Report: 2022 Update of the Field Verification and Diagnostic Testing Requirements (Oct. 2022) (hereinafter “FV&DT Draft Staff Report”), available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=246542&DocumentContentId=80755>.

built, and maintained not just to manage comfort levels of indoor air, but also to protect against health threats and to ensure energy efficiency. JCEEP's members have over 15 training facilities throughout the state and thousands of workers being trained daily in HVAC specialties, such as testing, adjusting, and balancing, commissioning, green building design, energy efficiency, and indoor air quality.

The sheet metal workers' unions have long advocated for and participated in development of building standards for mechanical systems in order to safeguard the public health, achieve energy efficiency, and ensure performance and reliability of systems. JCEEP was established to continue this tradition of advocacy in California. JCEEP was formed on the premise that HVAC systems need to be designed not just to manage comfort levels of indoor air, but also protect against contaminants and health threats, to ensure reliability and quality, and to ensure energy efficiency.

The FV&DT program is intended to support successful implementation of the California Energy Code by ensuring that consumers get the energy and monetary savings they expect from their investment in efficiency projects and help reduce the unnecessary consumption of energy.² FV&DT has been historically performed by Home Energy Rating System ("HERS") raters, but in recent years, the Commission has permitted ATTs to perform FV&DT for nonresidential, hotel/motel and high-rise multifamily buildings as an alternative to HERS raters to remove redundant testing requirements and provide reductions in cost and complexity for the marketplace with a more streamlined compliance strategy.

In the FV&DT Draft Staff Report, Commission staff propose to consolidate all regulations related to the FV&DT program into Title 24 and address areas that have been the source of programmatic problems and complaints, including HERS raters conducting poor quality or noncompliant field verification and diagnostic testing.³ To achieve these goals, staff have grouped program changes into eight areas: (1) align the FV&DT program with Energy Code requirements; (2) add provisions for rater companies; (3) add conduct requirements and progressive discipline for providers, raters, and rater companies; (4) add new ways for providers to conduct quality assurance; (5) expand conflict of interest restrictions; (6) modify requirements for rater training, testing, and oversight, (7) remove the designation

² FV&DT Draft Staff Report at p. 1.

³ FV&DT Draft Staff Report at p. 1, 19.

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of raters as special inspectors; and (8) amend other sections for greater clarity.⁴ In addition to input on the proposals identified in the FV&DT Draft Staff Report, staff is seeking information on other existing issues and associated impacts regarding the current HERS and FV&DT programs that are not reflected in the staff report.⁵

Given the documented problems with the HERS program,⁶ the Commission should continue to encourage and support the use of certified ATTs for FV&DT as an approved alternative to using HERS raters. To that end, JCEEP recommends that the Commission make two minor modifications to the FV&DT alternative procedure in the Nonresidential Appendix NA1 in order to ensure that ATTs are provided an equal opportunity to perform nonresidential FV&DT as HERS raters.

II. DISCUSSION

A. The Commission Should Allow Certified Acceptance Test Technicians to Perform Nonresidential FV&DT Without Pre-Approval by the Enforcement Agency

When HERS filed verification and diagnostic testing is required to be performed in accordance with Reference Appendix NA1 and NA2 procedures, compliance with HERS verification may alternatively be satisfied by a certified ATT.⁷ Under this alternative procedure, when the Certificate of Compliance indicates that HERS field verification and diagnostic testing is required as a condition of compliance with Title 24, Part 6, a certified ATT may perform the verification to satisfy the condition of compliance.⁸ However, currently an ATT can only do so at the discretion of the enforcement agency.⁹ The Commission should remove this pre-approval step to further streamline the compliance process for nonresidential builders.

This requirement should be removed for the same reasons identified by staff to support removing the designation of HERS raters as special inspectors. RA 2.1

⁴ FV&DT Draft Staff Report at p. 19.

⁵ California Energy Commission, Notice of Workshop: Update of the Home Energy Rating System Regulations (Oct. 27, 2022), *available at* <https://efiling.energy.ca.gov/GetDocument.aspx?tn=247051&DocumentContentId=81413>.

⁶ FV&DT Draft Staff Report at pp. 14-18.

⁷ Nonresidential Appendix NA1 § 1.9.

⁸ Nonresidential Appendix NA1 § 1.9.1.

⁹ Nonresidential Appendix NA1 § 1.9.1.
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requires that raters must demonstrate competence, to the satisfaction of the building official, for the visual inspections and diagnostic testing that they perform.¹⁰ Staff concluded this requirement is unnecessary because non local building department has required a HERS rater to demonstrate competence to their satisfaction to operate within its jurisdiction and that raters are trained and certified by providers as set forth in the program regulations without any other action taken by the building official.¹¹ Like HERS raters, ATTs should not be required to demonstrate competence to the enforcement agency to their satisfaction to operate within its jurisdiction. ATTs are trained and certified by Commission-approved Acceptance Test Technician Certification Providers ("ATTCPs") as set forth in the program regulations without any other action taken by a building official.

Finally, the Energy Code already contains requirements to ensure the enforcement agencies remain involved and retain oversight. For example, NA1.9.2 mandates that when an ATT performs the required FV&DT according to the specified procedures and verifies that the work meets the requirements for compliance as shown in the Certificate of Compliance, the ATT must then sign a copy of the Certification of Acceptance, submit it to the approved ATTCP, and post it at the job site for review with by the enforcement agency, in conjunction with requests for final inspection in accordance with NA1.3.4. Demanding pre-approval from the enforcement agency is redundant and unnecessary.

B. The Commission Should Allow Group Sampling When Systems Are Verified by Certified Acceptance Test Technicians

If systems are verified by ATTs, then those systems are not eligible for sampling procedures described in NA1.6.¹² HERS filed verification and diagnostic testing must be completed either for each system or dwelling unit, or alternatively from a sample from a designated group of systems or dwelling units. If the builder or owner elects to utilize group sampling, they must follow the applicable procedures described in NA1.6.2 through NA1.6.4.

¹⁰ FV&DT Draft Staff Report at p. 34.

¹¹ FV&DT Draft Staff Report at p. 34.

¹² Nonresidential Appendix NA1 § 1.9.1.

There is no reason to treat FV&DT performed by ATTs differently than those performed by HERS raters. ATTs have a greater and more comprehensive level of training and expertise than HERS raters. ATTs are required by Commission regulations to have at least three years of professional experience and expertise in mechanical controls and systems as well as classroom and hands-on training regarding the performance of testing, including passing a final written and practical exam. ATTs must follow specific acceptance test procedures that are equivalent or more comprehensive than the HERS procedures. Moreover, ATTs are required to record the results of the acceptance tests with a Commission-approved ATTCPs, which also provide training, certification, and oversight of ATTs, including random quality control inspections. Therefore, the Commission should allow the same group sampling when systems are verified by ATTs as it allows for HERS raters.

C. Recommend Modifications to Nonresidential Appendix

JCEEP recommends Section NA1.9.1 of the Nonresidential Appendix be modified as follows:

Under this alternative procedure, when the Certificate of Compliance indicates that HERS field verification and diagnostic testing is required as a condition for compliance with Title 24, Part 6, a certified ATT may perform the verification to satisfy the condition of compliance, ~~at the discretion of the enforcement agency. Systems verified under this procedure are not eligible for use of the sampling procedures described in NA1.6.~~

III. CONCLUSION

JCEEP greatly appreciates the Commission's continued efforts to improve compliance with the Energy Code and recommends that the Commission revise NA1.9.1 to remove the requirement that enforcement agencies pre-approve nonresidential FV&DT by ATTs and allow group sampling consistent with applicable procedures.

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Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew J. Graf". The signature is stylized with a large initial "A" and a long horizontal stroke at the end.

Andrew J. Graf

AJG:ljl