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September 14, 2023

Submission via Electronic Docket

California Energy Commission
Docket Unit, MS-4
Docket No. 22-BSTD-01
715 P Street
Sacramento, California 95814

Re: **Comments on the 2025 Energy Code Pre-Rulemaking Recommending Modifications to Acceptance Test Technician Certification Provider Quality Assurance and Accountability Requirements**

Dear Commissioners and Staff:

We write on behalf of the Joint Committee on Energy and Environmental Policy (“JCEEP”), Western States Council of Sheet Metal, Air, Rail and Transportation Workers (“Western States Council”), National Energy Management Institute Committee (“NEMIC”), California Association of Sheet Metal and Air Conditioning Contractors, National Association (“Cal SMACNA”) (collectively “the Coalition”) to propose changes to nonresidential acceptance test and training certification requirements as part of the 2025 update to the Building Energy Efficiency Standards (“Energy Code”). Specifically, the Coalition recommends that the California Energy Commission (“Commission”) modify the quality assurance and accountability requirements for Acceptance Test Technician Certification Providers (“ATTCPs”) to provide more flexibility and reduce costs.

ATTCPs are organizations approved by the Commission to train, certify and oversee acceptance test technicians (“ATTs”) and acceptance test employers (“ATEs”) relating to mechanical systems according to the requirements of Section 10-103.2 of the Energy Code.¹ ATTCPs must submit a written application to the Commission explaining how certain criteria and procedures have been met.² As

¹ Cal. Code Regs., tit. 24, pt. 1 § 10-102.

² *Id.* § 10-103.2(c).
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part of the application, the ATTCP must describe its procedures for conducting quality assurance and accountability activities.³ At a minimum, ATTCPs must describe procedures for:⁴

- Independent oversight of certification materials, processes and procedures;
- Visits to building sites where certified technicians are completing acceptance tests;
- Certification process evaluations;
- Building department surveys to determine acceptance testing effectiveness;
- Expert review of the training curricula developed for nonresidential and multifamily mechanical acceptance testing requirements;
- Random sampling of no less than 1 percent of each ATT's completed compliance forms; and
- Randomly selected shadow audits of no less than 1 percent of each ATE's overseen projects, following the assigned ATT and observing their performance on the job site.

Many of these requirements are unnecessary, not enforced, and add substantial costs without countervailing benefits or energy efficiency outcomes. ATTCPs have uniformly reported they are struggling financially because of the lack of local enforcement of acceptance test requirements. To ensure that these programs can feasibly continue in existence, the Coalition recommends that the Commission modify several of these requirements to provide more flexibility and reduce costs.

A. The Commission Should Modify the Audit Requirements

The Energy Code currently requires that ATTCPs sample at least 1% of each ATT's complete compliance forms and conduct a shadow audit on at least 1% of each ATE's overseen projects by observing an ATT's performance on the job site.⁵ The Commission should make three changes to these requirements.

³ *Id.* § 10-103.2(c)3F.

⁴ *Id.* § 10-103.2(c)3Fi-ii.

⁵ *Id.* § 10-103.2(c)3Fii.

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First, the Commission should clarify the shadow audit requirements because the current language is vague and does not meaningfully ensure an ATT demonstrates competency. Instead, the Commission should expressly state that the objective of the shadow audit is to ensure the ATT demonstrates competency.

Second, the Commission should give ATTCPs the option to conduct the shadow audit at a training facility, rather than exclusively at the job site. Allowing the shadow audit to be performed off-site would reduce costs and ease administrative burdens, while still achieving the same outcomes – that is, the ability to confirm ATT competency.

Third, the Commission should exempt ATTCPs from the audit requirements if the ATTCP's certification program is accredited under the ISO/IEC 17024 international standard for Conformity Assessment – General Requirements for Bodies Operating Certification of Persons. This standard was developed with the objective of achieving and promoting a globally accepted benchmark for organizations operating certification of persons. The standard specifies requirements which ensure that certification bodies operating certification schemes operate in a consistent, comparable, and reliable manner.

An exemption is appropriate under these circumstances because the audits, which are already a redundant requirement (quality assurance tests of the technician performing quality assurance tests of the technician installing a system), then becomes an even more redundant requirement when ISO/IEC 17024 accreditation oversight is also added to the mix. While the ISO/IEC 17024 oversight is not precisely identical to the paper audit and shadow audit requirements, it provides sufficient additional oversight for an ATTCP program to justify relieving an accredited ATTCP program from the paper and shadow audit requirements.

At the time that the audit requirements were adopted, there was no evidence that these redundant quality assurance measures would have any measurable impact on energy efficiency outcomes above that provided by the underlying goal of ensuring that acceptance testers were properly trained. Accordingly, there is no evidence that accepting ISO/IEC 17024 as a proxy for the redundant ATT audit requirements would have any impact on energy efficiency outcomes.

B. The Commission Should Eliminate the Requirement that an ATTCP’s Quality Assurance and Accountability Measures Include Visits to Buildings Sites Where ATTs Are Completing Acceptance Tests

The Energy Code requires that an ATTCP’s quality assurance and accountability measures include site visits to buildings sites where certified technicians are completing acceptance tests.⁶ This requirement is costly and duplicative given that ATTCPs are already obligated to conduct a shadow audit. Furthermore, this requirement is vague and is not being enforced. It is critical that the Commission not burden ATTCPs with unnecessary costs, especially at this important juncture for the program. Therefore, the Commission should remove this requirement.

C. The Commission Should Eliminate the Requirement that an ATTCP’s Quality Assurance and Accountability Measures Include “Building Department Surveys”

The Energy Code requires that an ATTCP’s quality assurance and accountability measures include building department surveys to determine acceptance test effectiveness.⁷ This requirement is vague and is not being enforced. Furthermore, such surveys would be costly and would lack substance so long as most building officials continue to fail to enforce acceptance test requirements at all. Finally, building department surveys are outside the scope of the activities normally performed by ATTCPs. It is critical that the Commission not burden ATTCPs with unnecessary costs. Therefore, the Commission should remove this requirement.

D. Proposed Revisions to Energy Code Language

The Coalition recommends the following modifications to Section 10-103.2(c)3F, where blue underline represents added language, and ~~red-strikethrough~~ represents deleted language:

⁶ *Id.* § 10-103.2(c)3Fi.

⁷ *Id.* § 10-103.2(c)3Fi.
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- F. **Quality Assurance and Accountability.** The ATTCP shall describe in its applications to the Energy Commission procedures for conducting quality assurance and accountability activities, including but not limited to the following:
- i. The ATTCPs shall include quality assurance and accountability measures, including but not limited to independent oversight of the certification materials, processes and procedures, ~~visits to building sites where certified technicians are completing acceptance tests,~~ certification process evaluations, ~~building department surveys to determine acceptance test effectiveness,~~ and expert review of the training curricula developed for Building Energy Efficiency Standards, Section 120.5 and 160.3(d).
 - ii. The ATTCP shall review a random sample of no less than 1 percent of each ATT's completed compliance forms. The ATTCP shall also randomly select and shadow audit no less than 1 percent of each ATE's overseen projects. For the shadow audit, the ATTCP shall either: (1) randomly select an ~~following the assigned~~ ATT assigned to the project and ~~observe~~ observe their performance on a sample set, sufficient to demonstrate competency, of the functional tests being performed on the job site; or (2) randomly select an ATT assigned to the project and bring them into an ATTCP training facility to observe their performance on a sample set, sufficient to demonstrate competency, of the same functional tests assigned to be performed on the project. ~~Independent oversight may be demonstrated by accreditation under the ISO/IEC 17024 standard.~~

EXCEPTION to Section 10-103.2(c)3Fii: If the ATTCP's program is accredited under the ISO/IEC 17024 international standard for the competence of personnel certification bodies and the certification of individuals, then the ATTCP is not subject to the requirements of Section 10-103.2(c)Fii. The ATTCP shall provide evidence of accreditation under the ISO/IEC 17024 standard in the ATTCP's application or amended application.

We greatly appreciate the Commission's continued efforts to improve compliance with the Energy Code. The proposed modifications to ATTCP quality assurance and accountability requirements will reduce costs and administrative burdens, with neutral energy efficiency impacts, while still maintaining high standards.

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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 fluid and cursive, with the first name "Andrew" and last name "Graf" clearly distinguishable.

Andrew J. Graf

AJG:ljl