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Via Docket No. 24-BSTD-01

California Energy Commission
Docket Unit, MS-4
715 P Street
Sacramento, California 95814

Re: **Comments of JCEEP, WSC SMART, CAL SMACNA, and NEMIC on
2025 California Energy Code 15-Day Language**

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 (“WSC SMART”), California Association of Sheet Metal and Air Conditioning Contractors, National Association (“CAL SMACNA”), and National Energy Management Institute Committee (“NEMIC”) to comment on the 15-Day Language for the Building Energy Efficiency Standards contained in the California Code of Regulations, Title 24, Part 6 (also known as the California Energy Code). We continue to support the comprehensive updates to the code, especially the changes to the nonresidential field verification and diagnostic testing program. Our comments below focus on outstanding issues with the audit procedures for acceptance test technician certification providers (“ATTCPs”).

In our comments on the 45-Day Language, we expressed three major concerns with the audit procedures set forth in Section 10-103.2(c)3F. First, the number of audits required under the newly added alternative shadow audit option at ATTCP training facilities is not equivalent to the existing jobsite option and would impose significantly greater costs and burdens on an ATTCP choosing that option. Second, the existing and proposed language fails to clarify the required frequency of paper and shadow audits. Third, the training facility option would unnecessarily require that all ATTCP facilities can perform shadow audits on acceptance tests that acceptance test technicians (“ATTs”) are not certified to perform.

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The 15-Day Language corrects only the third concern, now only requiring a testing facility to have the ability to test the acceptance tests that the ATTs being tested are certified to perform. We respectfully request that the Commission modify the 15-Day Language to address the remaining deficiencies with the shadow audit option to provide equivalency and eliminate unnecessary costs.

At the workshop on these changes, staff indicated its intent to make the alternative shadow audit procedure equivalent to the existing procedure. Indeed, the alternative shadow audit procedure is intended to provide options that could reduce the administrative costs of the acceptance test program, while maintaining a generally equivalent level of oversight. Unfortunately, the 15-Day Language maintains significant differences between the two that would make compliance under the alternative shadow audit procedure almost *seven times more expensive* and burdensome than compliance under the existing procedure.

These differences are in how the minimum number of audits are determined under each audit procedure. Instead of using the same method of calculation, the proposed language sets forth a different method depending on what procedure is selected. This creates two issues.

First, it requires an ATTCP to use one procedure or the other, rather than allowing them to select the procedure that makes the most sense, and is the most efficient, for the type of project being audited. There may be some projects where it is easy to send someone out to the project to perform a shadow audit at the time of installation; and there may be other projects where a timely and complete on-site audit is not practical. By creating different audit triggers for each procedure, the Commission is essentially locking an ATTCP into one method or the other. Second, by utilizing different audit triggers for each procedure, the Commission is creating a substantial and inequitable disparity in burdens and costs between the methods.

The audit trigger for the on-site option requires conducting a jobsite audit of 1% of each acceptance test employer's ("ATE") overseen projects, following the assigned ATT and observing their performance. This scope is project-based, meaning the minimum number of audits required to be performed under this option is determined based on the percentage of each ATE's overseen projects. Jobsite audits are performed continuously and proportionally to the volume of projects overseen by each ATT.

The alternative option involves an off-site audit of each ATT at a training facility at least once per code cycle. The alternative off-site audit option sets the minimum number of audits required to be performed based on the total number of ATTs certified by an ATTCP, rather than on the number of projects performed by an ATE. Under this procedure, training center audits must be performed at least once per code cycle for each ATT.

Staff recognizes there are differences between the two, but they explained the options were equivalent based on “back-of-the-envelope” calculations showing that number of total audits performed by ATTCPs would be similar.¹ However, our “real world” analysis demonstrates that the number of shadow audits conducted under the new alternative off-site audit option would be significantly higher than the number of shadow audits performed under the existing on-site audit option.

For example, NEMIC currently has 85 mechanical ATEs and 588 mechanical ATTs. Since 2022, NEMIC’s ATEs have completed 524 projects, with only one ATE exceeding 100 cumulative projects over that time. Under the jobsite option, NEMIC would need to perform 86 shadow audits (2 audits for the ATE that exceeded 100 cumulative projects, and 1 audit for each other ATE under 100 projects). Under the off-site training facility option, NEMIC would need to perform 588 shadow audits, which is almost seven (7) times more audits than required under the on-site audit option. Moreover, the current language of this procedure would require an ATT to be audited even if that ATT only worked on 1 or two projects, or even no projects at all.

This would result in significantly more costs and burdens under the off-site option – to both the ATTCPs and their certified ATTs. Not only are there significant costs for performing these audits, but there are also costs for administrative coordination, travel and downtime for technicians who are pulled away from their regular duties.

If the number of audits is identical between the two options, an ATTCP can make an informed determination of which option is most efficient when audit requirements are triggered. Given the intent of this alternative option to provide reductions in the administrative costs of this program, it is critical that the

¹ TN# 256841, California Energy Commission, CEC Lead Commissioner Hearings on 2025 Building Energy Efficiency Standards (Apr. 16, 2024) p. 52, *available at* <https://efiling.energy.ca.gov/GetDocument.aspx?tn=256841>.
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minimum number of audits required to be performed under both options be the same, no matter which audit method is selected. Without amendments to the current 15-Day Language, the alternative audit method will not only fail to provide relief from administrative costs, but it is also unlikely that it would ever be used.

To make the two shadow audit options truly equivalent, adjustments need to be made to align the scope and timing of feedback. We recommend the following language be inserted into Section 10-103.2(c)3Fiii, which combines the audit trigger for the two options into a single, identical provision:

The ATTCP shall randomly select and shadow audit no less than 1 percent of each ATE's overseen projects per code cycle, following the assigned ATT and observing their performance on the job site or at an ATTCP training facility. If the shadow audit occurs at an ATTCP training facility, the ATTCP shall observe the performance of the ATT on at least five functional tests for which the ATT is certified. The shadow audit must replicate field conditions for installed equipment and controls in a building. The ATTCP training facility shall be set up to allow auditing of all functional tests for which the ATT is certified. The shadow audits must be in addition to any testing used for ATT recertification.

This proposed language synchronizes the audit scopes by retaining the project-based methodology, allowing ATTCPs to choose whether the audit occurs on-site or at a training facility. It also clarifies audit frequency by requiring that 1 percent of each ATE's overseen projects be calculated based on the number of projects completed in each code cycle. This hybrid approach leverages both options to maintain audit efficacy and cost-effectiveness.

We greatly appreciate the Commission's continued efforts to improve the Energy Code. Thank you for your consideration of these comments and please do not hesitate to contact us with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew J. Graf".

Thomas A. Enslow
Andrew J. Graf

AJG:ljl

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