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2022 Energy Code Pre-Rulemaking

Comments address:
2022 Energy Code Express Term
2022 Reference Appendices Express Terms
NDR Alternative Report

Additional submitted attachment is included below.

Docket No. 19-BSTD-03
California Energy Commission
Dockets Office MS-4 1516
Ninth Street Sacramento, CA 95814-5512
2022 Energy Code Pre-Rulemaking

Re: Comments on Alternative to NDR Staff Report (TN# 236937) and related Draft 2022 Energy Code Express Terms (TN # 236876) and Draft 2022 Reference Appendices Express Terms (TN# 236874).

Dear Commissioners and Staff:

I am writing on behalf of the National Energy Management Institute Committee (NEMIC) to comment on the Staff Report on Nonresidential Data Repository for the 2022 Energy Code: Alternative to the Data Registry for Acceptance Test Technician Certification Providers (NDR Alternative Report) (docketed February 26, 2021), and the related proposals contained in the Draft 2022 Energy Code Express Terms (TN # 236876) and Draft 2022 Reference Appendices Express Terms (TN# 236874) (docketed February 22, 2021) (Express Terms). NEMIC has been approved by the California Energy Commission (CEC), as an Acceptance Test Technician Certification Provider (ATTCP), to provide training, certification, and oversight functions for Acceptance Test Technicians (ATTs).

The NDR Alternative Report and the Express Terms propose several changes to the ATTCP database requirements, including requiring ATTCPs to maintain an electronic database system capable of: (a) supporting its quality assurance program, (b) recording and preserving for no less than five years all certificates of acceptance performed by its own certified ATTs; and (c) providing that copies of acceptance tests can be printed or transmitted electronically with the ATTCP logo to the ATT or ATE responsible for the document. The Express Terms further propose requiring that the ATTCP provide a means of verifying any certificate of acceptance to the enforcement agency having jurisdiction as identified on the certificate of acceptance. NEMIC supports all of these requirements as reasonable and consistent with the intent of the ATTCP program and generally consistent with the capabilities that the ATTCP currently maintain.

The NDR Alternative Report and the Express Terms, however, also propose that the ATTCPs modify their databases to provide the CEC access to their proprietary databases and to provide the CEC specific search and report building capabilities. NEMIC objects to this proposal on the grounds that it will increase the costs and complexity of its database

development and operation. Allowing the CEC broad access into its database also raises security and confidentiality issues. The costs associated with this requirement would need to be passed on and would raise the cost of using certified acceptance testers. Furthermore, it is unclear what benefit this additional cost is supposed to provide.

As discussed in more detail in Section III below, NEMIC agrees with the mandate for each ATTCP to have a functioning database. However, the role of the database should be limited to:

- Supporting all activities for the ATTCP to comply with its quality assurance program.
- Allowing the transmission of electronic copies of each completed certificate of acceptance to the ATT that performed the test, the ATE associated with that ATT, or both.
- Providing project addresses, permit numbers, acceptance form information, compliance forms, and installation forms to CEC staff upon request, or by uploading data and documents to a CEC owned and operated Central Nonresidential Data Registry/Repository platform (CNDR), as recommended in the California Energy Alliance CEA proposal discussed in the NDR Alternative Report. Data should be uploaded from the ATTCP to the CNDR through an Application Programming Interface (API). The API shall be developed and operated by the CEC.

I. Proposed Revisions to 2022 Energy Code Express Terms Related to ATTCP Database Requirements

2022 Energy Code Express Terms

NEMIC recommends amending the proposed new section 10-103.2(c)3H as follows:

H. Electronic Database System. The ATTCP shall maintain, or by suitable contractual requirements cause to be maintained, an electronic database system approved by the CEC.

The electronic

database system shall be capable of all the following:

- i. Support all activities for the ATTCP to comply with its quality assurance program as required by Section 10-103.2(c)3F.
- ii. For no less than five years, record and preserve all certificates of acceptance offered for certification by the ATTCP and as performed by its own certified ATTs.
- iii. Allow the transmission of electronic copies of each completed certificate of acceptance to the ATT that performed the test, the ATE associated with that ATT, or both.
 - a. Each page of each certificate of acceptance shall bear the logo of the ATTCP or other identifying insignia as approved by the CEC.
 - b. The electronic copy shall be capable of being printed.

- c. The ATTCP may apply to the CEC for approval to use alternative compliance documents that differ from those approved for use by the CEC but must demonstrate that these alternative compliance documents do not differ in format, informational order, or content from the CEC-approved compliance documents.
- iv. Provide a means of verifying any certificate of acceptance to the enforcement agency having jurisdiction as identified on the certificate of acceptance.
- v. Provide the CEC with any of the following project data or documents upon request: project address, permit numbers, acceptance test technician and acceptance test employee certification numbers, certificates of acceptance, compliance forms, installation forms, and record of quality assurance review. The CEC may adopt an Application Programming Interface (API) for providing data electronically. Within one year of development of an API, the ATTCP's electronic database system shall have the ability to transfer project data to the CEC through the API upon completion of the project or at established intervals no longer than monthly. ~~read-only access to the electronic database system with the authority to inspect and securely retrieve all compliance documents and quality assurance records.~~
- ~~vi. The CEC access to the electronic database system shall include a search function which returns summary reports as requested by the CEC.~~
 - ~~a. The search function shall include all of the following filters:
 - ~~i. The date range shall be customizable.~~
 - ~~ii. The Building Energy Efficiency Standards code compliance year shall be customizable.~~
 - ~~iii. The range of specificity for authorities having jurisdiction shall be from a single authority to all authorities in California.~~
 - ~~iv. Project location with fields for number, street name, city, and zip code~~
 - ~~v. The range of specificity for ATEs shall be from a single ATE to all ATEs certified by the ATTCP.~~
 - ~~vi. The range of specificity for ATTs shall be from a single ATT to all ATTs certified by the ATTCP.~~
 - ~~vii. The type of compliance document shall be customizable.~~~~
 - ~~b. Each summary report shall include a list of all projects which meet the search criteria and include the following information:
 - ~~i. The project name~~
 - ~~ii. The project address~~
 - ~~iii. The authority having jurisdiction~~
 - ~~iv. The project code compliance year~~
 - ~~v. A list of all compliance documents associated with the project~~
 - ~~vi. A list of all quality assurance documents associated with the project~~~~
- ~~c. Each summary report shall include the ability to download all the records for a single project listed on a summary report~~

- d. ~~Each summary report shall include the ability to download all the records for all projects listed on a summary report.~~

[NEMIC COMMENT –ATTCPs are already required to provide annual summary reports in Part 1, Section 10-103.1, subsection (d)(1). If staff seeks additional summary information, that additional information should be clearly identified and justified; and included as amendments to Section 10-103.1, subsection (d)(1). It is unreasonable to require ATTCPs to agree to provide summary reports without clarifying what information those reports are summarizing.]

II. Proposed Revisions to 2022 Reference Appendices Express Terms Related to ATTCP Database Requirements

2022 Reference Appendices Express Terms

NEMIC recommends amending current NA1.9.3 Sections d and e as follows:

NA1.9.3, section d:

d. The ATTCP shall allow the Energy Commission staff access to any of the following project data or documents upon request: project address, permit numbers, acceptance test technician and acceptance test employee certification numbers, certificates of acceptance, compliance forms, installation forms, and record of quality assurance review. The CEC may adopt an Application Programming Interface (API) for providing data electronically. Within one year of development of an API, the ATTCP's electronic database system shall have the ability to transfer project data to the CEC through the API upon completion of the project or at established intervals no longer than monthly ~~to its electronic system with the authority to visually inspect all records.~~

[NEMIC COMMENT – current language is vague as to what data or records must be available and how access is provided].

NA1.9.3, section d:

e. The ATTCP shall ~~provide all~~ submit annual summary reports regarding duct leakage acceptance test compliance documents as requested by the Energy Commission staff in compliance with Title 24, Part 1, Section 10-103.1, subsection (d)(1).

[NEMIC COMMENT – current language is vague as to what is required to be able to be summarized in reports. ATTCPs are already required to provide annual summary reports in Part 1, Section 10-103.1, subsection (d)(1). If staff seeks additional summary information, that additional information should be clearly identified and justified, and included as amendments to Section 10-103.1, subsection (d)(1). It is unreasonable to require ATTCPs to agree to provide summary reports without clarifying what information those reports are summarizing.]

III. Comments on NDR Alternative Report

NDR Alternative Report

NEMIC agrees with the recommendation of the NDR Alternative Report to replace current third-party registry requirements with the recommendations of the California Energy Alliance (CEA) proposal. **Repository Comments (submitted on 4/21/20)**. NEMIC, agrees that the development of a third-party Registry will result in redundancy and added cost to all stakeholders.

However, NEMIC disagrees with the proposal to require each ATTCP to provide the CEC direct access to its databases and to develop an electronic search and report option for the CEC staff to use. This proposal is not consistent with the CEA proposal which recommends that each ATTCP directly provide the CEC specified electronic data and documents per an Application Programming Interface (API), and that the CEC would then aggregate this data in its own central database (e.g., a Central Nonresidential Data Registry/Repository platform (CNDR)). As the central hub, the CEC will need to develop the Application Programming Interface (API). This will set a standard for how all information is uploaded from the ATTCP database to the CNDR.

The proposal to have each ATTCP develop its own electronic search and report option for the CEC staff to use will increase costs, complexity and security risks to the ATTCPs. These increased costs would result in increased acceptance test costs without a clear counter-balancing benefit.

If the intent is to improve AHJ enforcement of Title 24 acceptance test requirements, a single registry/repository for all projects is needed to simplify AHJ enforcement. Currently, an AHJ needs to review all the title 24 documents, ensure the proper documents are included and check to see that each document has been signed by the required responsible parties. The annual reports submitted by lighting control ATTCPs suggest that AHJs in many jurisdictions are simply ignoring this requirement. Simply adding QR codes to acceptance test forms would not resolve this issue. A QR code would require an AHJ to collect the document, scan it and then check the corresponding website. This adds an additional step rather than eliminating a step. If an AHJ has to check multiple different ATTCP websites, this will further increase their workload.

The CEA proposal recognizes that the best way to improve AHJ enforcement is to have a Central Nonresidential Data Registry/Repository platform for all CEC title 24 compliance documents (NRCC, NRCI, and NRCA) where an AHJ merely has to put in the address of the project in order to verify whether all required forms have been submitted and signed by the required responsible parties (including certified acceptance testers). To reduce costs, such a Central Nonresidential Data Registry/Repository should be owned and operated by the CEC – and funded through a fee on each submitted document. The CNDR should not be privatized or monetized.

A centralized hub (CNDR) will improve enforcement by giving AHJs one central repository for viewing all completed compliance documents. A centralized CNDR will also facilitate identification of non-compliant projects and highlight gaps in regional enforcement in a much more efficient and effective manner than individual reviews of numerous, disparate ATTCP databases. NEMIC understands that CEC staff may have concerns that providing AHJs access to a centralized CNDR could conflict with current statutory privacy restrictions on the sharing of CEC data. The Report should be revised to make recommendations for limited amendments to those restrictions to allow AHJs the ability to verify project compliance with title 24 documentation requirements.

NEMIC also notes that the ATTCPs are already required to have vigorous quality assurance programs and to provide annual reports on the outcomes of these programs. Providing the CEC direct access to the ATTCP databases would not result in any meaningful advance of the quality assurance programs, particularly in relation to the cost.

Finally, NEMIC supports the NDR Alternative Report's proposal to require acceptance test technicians to collect the relevant completed NRCI and NRCC forms to assist with the acceptance testing process. However, the mechanical ATT should not be responsible for a verification that the compliance documents were completed correctly and accurately. The mechanical ATT is not a licensed design professional and should not be responsible for signing these forms or ensuring their accuracy. For the ATT to efficiently collect the NRCI forms, the energy code should state that the completed forms must be provided to the ATT by the owner or owner's representative before going out to the project site and performing the acceptance tests. Currently the mechanical ATT is not typically provided the NRCI form.

NEMIC thanks the Commission for the opportunity to provide comments on these proposals.



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National Energy Management Institute