

DOCKETED

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Reinstate Plan Review Requirements for Enhanced Title 24, Part 6 Compliance

Additional submitted attachment is included below.



September 15, 2023

California Energy Commission
715 P Street
Sacramento, CA 95814

Re: Reinstate Plan Review Requirements for Enhanced Title 24, Part 6 Compliance - Docket No: 22-BSTD-01

Dear Commissioners and Energy Commission Staff,

Thank you for the opportunity to provide this code change proposal regarding the 2025 Building Energy Efficiency Standards (Energy Code) Pre-Rulemaking. While this letter has been submitted under the 2025 Energy Code docket, our proposal concerns a change to the current 2022 code. A core group of CEA members are part of California's Acceptance Testing community, working to help the California Energy Commission (CEC) ensure that the Energy Code works as intended. Additionally, many of our members are manufacturers that make the types of advanced controls or lighting & HVAC systems that have helped the Energy Code become, potentially, one of the most effective energy efficiency policies in the world.

These members share a common concern that the Energy Code is not achieving its full potential in part due to the removal of verbiage from the standards during the 2016 Energy Code rulemaking. Since the removal of this language, the Acceptance Testing community has seen a decline in the responsibility of the Acceptance Test Technicians (ATT) regarding plans and specifications which has vastly reduced their involvement in ensuring that the mandatory requirements are met.

There is a particular urgency for the CEC's Acceptance Testing program to reinstate this language as insufficient enforcement and implementation is making the program unsustainable. CEA proposes that the requirements from the 2013 Energy Code Section 130.4(a)1 be reinstated as a mid-cycle change to the 2022 Energy Code as soon possible. These requirements encompass the certification of plans, specifications, installation certificates, and compliance with various sections of the building code.

Energy Code Change Summary

CEA proposes the following requirement be reinstated from the 2013 Energy Code which was removed during the 2016 Energy Code cycle.

- CEA recommends reinstating the following language to Section 130.4(a) 1. Reserved.
 - *"Certifies plans, specifications, installation certificates, and operating and maintenance information meet the requirements of Part 6."*

Energy Code Change Analysis and Structure

Reinstating these requirements are essential for ensuring Energy Code compliance while introducing a more collaborative approach with the Authority Having Jurisdiction (AHJ). CEA would like to emphasize that the reinstated certification requirements would not serve as a means to override the AHJ's authority or the engineer on record (EOR). Instead, the ATT would function as a valuable tool to enhance transparency and cooperation with the design team prior to the permitting process, providing clarity on non-compliance issues. CEA believes this approach is beneficial for the following reasons:

1. **Collaborative Compliance:** Reintroducing these certification requirements would promote a collaborative compliance process. Rather than circumventing the EOR's decisions, the review process would work in tandem with their assessments. The EOR would remain the ultimate authority, while the review process would serve as an additional layer of documentation.
2. **Enhanced Documentation:** Restoring these review criteria would significantly improve our documentation practices. The compliance documents would serve as clear records of compliance or non-compliance with specific Title 24, Part 6 regulations. This documentation would be valuable not only for the AHJ but also for building owners, architects, and the installing contractors, ensuring everyone is aware of any issues and their resolution prior to permitting.
3. **Compliance Transparency:** By noting instances of non-compliance through the certification process, we enhance transparency. This transparency can lead to more informed discussions and resolutions, ultimately fostering a better understanding of the compliance landscape.
4. **Accountability:** Reinstating these requirements reinforces the accountability of architects, engineers, and contractors for adhering to the energy efficiency and environmental standards outlined in Title 24, Part 6. It also ensures that building owners receive the energy-efficient systems they expect and to help meet California's decarbonization goals.
5. **Energy Efficiency and Environmental Responsibility:** This approach aligns with a commitment to promoting energy-efficient and environmentally responsible building practices, a cornerstone of Title 24, Part 6. It reflects a dedication to reducing energy consumption and mitigating the environmental impact of our projects and decarbonization of California.

In order to address any concerns of the ATT overruling the AHJ once the plans have made it through plan check and were stamped, CEA recommends the ATT certify the plans, specifications, installation certificates, and maintenance information meet the requirements of Part 6 as part of the completion of the NRCC document, prior to the plan review process. This would also address a commonly used practice of submitting plan design as 80% complete when submitting to plan review, which often results in plans being approved that are not 100% complete or compliant. While this may add a minimal cost to the project, for this work to be done by the ATT, it has been proven that the additional cost implications of having to resolve the



noncompliance issues after they are installed often results in the changes not being made and contributes to an ongoing and pervasive use of non-compliant buildings coupled with inconsistent enforcement of acceptance testing requirements at the local level. Furthermore, the AHJs could rely on the work of the ATTs, which would assist in consistent acceptance test accountability and ensure building compliance. The potential structure to resolve these challenges and promote an improved and collaborative process includes:

1. An ATT should conduct a comprehensive plan review of all construction documents.
2. It's important to communicate any code compliance issues to the client or design team that could hinder the project's successful completion of the functional testing process.
 - a. Just meeting code compliance in the design phase does not guarantee smooth functional testing. For example, many projects encounter challenges related to daylight controls, such as cardinal direction considerations or occupancy sensor placement, which might not be adequately addressed in the plans despite complying with the code.
3. The role of the ATT must never override the approved plans of enforcement agencies.
4. Similarly, the ATT must never supersede the approved plans of the engineer of record.
 - a. In situations where the engineer is unavailable, there could be instances where the responsibility for a project is assumed by the ATT or another entity like a general or electrical contractor. Such a transfer of responsibility has occurred in cases when the engineer is no longer accessible.
5. The NRCC could establish a designated signature area for ATTs to indicate whether they have found the design compliant or non-compliant. This information could then be shared with the design team prior to plan submission, fostering better communication and proactive resolution of compliance issues.

Proposed Code Language

The proposed changes to the standards are to the language from the latest relevant 2022 Energy Code document and use underlines (new language) and strikethroughs (deletions) to show edits to code language.

SECTION 130.4 – LIGHTING CONTROL ACCEPTANCE AND INSTALLATION CERTIFICATE REQUIREMENTS

(a) **Lighting and receptacle control acceptance requirements.** Before an occupancy permit is granted, indoor and outdoor lighting and receptacle controls serving the building, area or site and installed to comply with Section 110.12, 130.1, 130.2, 130.5 or 140.6 shall be certified as meeting the Acceptance Requirements for Code Compliance as specified by the Reference Nonresidential Appendix NA7.6 and NA7.8. A Certificate of Acceptance shall be submitted to the enforcement agency under Section 10-103(a) of Part 1, that the equipment and systems meet the acceptance requirements:

1. ~~Reserved~~ Certifies plans, specifications, installation certificates, and operating and maintenance information meet the requirements of Part 6.



CEA urgently requests expedited implementation of our proposal to reinstate the above language in the 2022 Energy Code early in 2024, as a first step to improve compliance before it becomes too late for the entire Acceptance Testing Program. CEA is eager to collaborate with the CEC and our industry partners to help begin addressing California's energy efficiency compliance and enforcement challenges.

Sincerely,

A handwritten signature in black ink that reads "Josh Dean". The signature is fluid and cursive, with a long horizontal stroke at the end.

Josh Dean
Executive Director
California Energy Alliance
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