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Document Title:	Comments on 2025 Energy Code Pre-Rulemaking Express Terms Recommending Modifications
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November 17, 2023

Via Docket No. 22-BSTD-01

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

Re: **Comments on 2025 Energy Code Pre-Rulemaking Express Terms
Recommending Modifications to Section 10-103.2 – Nonresidential
Mechanical Acceptance Test Training and Certification**

Dear Commissioners and Staff:

We write on behalf of the National Energy Management Institute Committee, Joint Committee on Energy and Environmental Policy, Western States Council of Sheet Metal, Air, Rail and Transportation Workers, California Association of Sheet Metal and Air Conditioning Contractors, National Association (collectively “the Coalition”) to request that the Commission modify quality assurance and accountability requirements for Acceptance Test Technician Certification Providers (“ATTCPs”) as part of the 2025 update to the Building Energy Efficiency Standards (“Energy Code”).

On September 14, 2023, the Coalition submitted comments recommending that the Commission (1) clarify the objectives of shadow audit requirements, (2) allow ATTCPs to conduct audits at a training facility, (3) exempt ATTCP from audit requirements if the ATTCP is accredited under the ISO/IEC 17024 international standard for certifications, (4) eliminate visits to building sites, and (5) eliminate building department surveys.¹ On November 3, 2023, the Commission staff released the draft regulations (also called Express Terms) that would result from

¹ TN #252266, Letter to California Energy Commission from Andrew J. Graf, Adams Broadwell Joseph & Cardozo re: Comments on the 2025 Energy Code Pre-Rulemaking Recommending Modifications to Acceptance Test Technician Certification Provider Quality Assurance and Accountability Requirements (Sept. 14, 2023), *available at* <https://efiling.energy.ca.gov/GetDocument.aspx?tn=252266&DocumentContentId=87271>.
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proposed amendments to the Energy Code.² However, the Express Terms do not include any changes to ATTCP quality assurance and accountability requirements. The Coalition respectfully requests that the Commission reconsider the Coalition's recommended modifications because the existing requirements impose substantial costs without countervailing benefits or energy efficiency outcomes.

ATTCPs have uniformly reported they are struggling financially because of the lack of enforcement of acceptance testing requirements. On-site shadow audits, site building visits, and building department surveys also add significant costs. The Commission can provide additional flexibility without sacrificing quality or accountability by allowing ATTCPs to demonstrate that acceptance test technicians ("ATTs") certified through their programs maintain competency through less expensive means, such as an exemption from audit requirements when the certification program meets international quality assurance standards or off-site shadow audits. Redundant site visits and unenforced building department surveys should be removed to eliminate unnecessary costs.

To that end, the Coalition respectfully requests the Commission modify Section 10-103.2(c)3F as follows, with blue underline representing added language, and ~~red strikethrough~~ representing deleted language:

- 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).

² TN #252915, California Energy Commission, Draft 2025 Energy Code Express Terms (Nov. 3, 2023), available at

<https://efiling.energy.ca.gov/GetDocument.aspx?tn=252915&DocumentContentId=88051>.

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- 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 ~~ing~~ 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 the Energy Code. These proposed modifications will reduce costs and administrative burdens for ATTCPs, with neutral energy efficiency impacts, while still ensuring that certified ATTs maintain high standards.

Thank you for your consideration of these comments.

Sincerely,



Andrew J. Graf

AJG:ljl