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Helen Lam  
California Energy Commission  
Buildings and Appliances Office  
Sacramento, CA 95814-5512

**Reference: Docket: 08-HERS-2**  
**Subject: CBPCA Comments on Final CEC HERS II**

The California Building Performance Contractors Association (CBPCA) is a nonprofit California HERS Provider as well as the implementer of all the state's major utility programs (with Southern California Edison, PG&E, and now SMUD just awarded) in "home performance contracting." These programs are associated with the national Home Performance with Energy Star initiative of DOE and EPA. We have trained over 500 people in detailed home energy diagnostics (much more extensive than HERS Rater requirements), integrated with high-performance home energy efficiency improvements and related business practices plus practical quality assurance. We have contractors active in all three utility service territories and our programs are expanding in the 2009-2011 utility program cycle. We are also providing input to the Obama Transition Team and associated agencies on related energy efficiency program approaches as part of the planned economic recovery program.

The CBPCA has been an active participant in the HERS II process and appreciates the opportunity to continue our participation with these comments on the current proposed regulation that will be up for Commission approval in tomorrow's business meeting. We also reference our prior November 13 submission and appreciate the CEC staff's efforts to facilitate the participation of home performance contractors in response to those earlier comments. The CBPCA strongly supports the HERS II goals and acknowledges with thanks the obviously extensive commitment and effort of the Energy Efficiency Division staff to serve the emerging home retrofit industry.

Our comments today are offered in support of the Commission's approval of the present proposed HERS II regulations. In CBPCA's view, the proposed regulations constitute a major step in the right direction, particularly in their recognition and incorporation of provisions to support the emerging home performance contracting field. We anticipate that further refinements will be made in the future as the new rules are put into practice and field experience develops.

We first offer this perspective on the importance of home performance contracting. AB32's recently approved Scoping Plan includes goals of an average 40% energy use reduction in ALL California homes by 2020, increasing to 80% by 2050. Current programs reach only a small fraction of all homes and typically deliver savings of 10-20% or less. Thus these new AB32 goals require a huge increase in current levels of energy efficiency programs, and can only be met through comprehensive home retrofits. We believe that contractor-led teams doing integrated home assessments and testing plus the actual work of home improvement, subject to high quality standards, will be an essential element in reaching those goals. This is particularly true for the even deeper energy savings that will be necessary in many homes to offset the others in which only small improvements are achieved.

The essential feature of home performance contracting, as incorporated into the proposed HERS II regulations, is for the home energy assessment (i.e., audit) and resulting recommendations to be included in the work of the contractor who will do the actual work on the home. This is the approach used nationally in the Home Performance with Energy Star program. Since the contractor is legally liable for home improvement project results, having that CBPCA-trained and approved contractor determine the nature, scope, and specifications of the home improvements not only offers the homeowner a simple one-stop transaction, it also avoids the split of responsibility between an independent rater and contractor that now forces the contractor to take responsibility for the diagnosis of the independent rater.

The following paragraphs address recent opposing comments in brief. In addition, we refer to our more detailed November 13 comments for further discussion.

Some participants have argued that such a dual role for the contractor creates a conflict of interest. Their solution is to require a complete separation of the two businesses with an independent rater required to specify the solution and the contractor only to implement it. Perhaps over time some raters will be able to gain the confidence of some contractors in the accuracy and appropriateness of their diagnosis. Although our experience with home performance contractors does not support such confidence (the contractor tends to redo the diagnosis to protect him/herself from that liability), we expect that the independent rater model will work in some cases. But it is unlikely to achieve the degree of energy savings required in many homes by the AB32 goals, which require far greater expertise and experience as well as the confidence of the homeowner in the "team" responsible for the high levels of effort and expense that will often be required for such ambitious targets.

Quality assurance is another concern. We note that an independent rater will likely work primarily with contractors NOT trained in home performance contracting, since those highly trained contractors such as our graduates will clearly prefer to conduct the diagnosis themselves. Some form of new training will be needed to assure the quality of the rater-generated installations, especially since the independent rater will not be required to return and test to assure the quality of that work by the independent (untrained) contractors. More importantly, since the independent rater will not be allowed to associate formally with the contractor, due to conflict of interest concerns, the rater

will not be involved in the project and the quality of the results will be difficult or impossible to verify.

In contrast, the fully integrated Home Performance with Energy Star approach for contractors will assure quality both through comprehensive training and participation in quality assurance post-project sampling and testing (by an independent rater) in accord with the existing utility and Federal program requirements. Those quality assurance steps are already deemed effective by home performance programs around the country, including in California.

A final point concerns the qualifications for allowed HERS II participation as a home performance contractor. Others have suggested that this could lead to a variety of inadequate training and certification approaches, implying a lack of CEC control. However, we note that the regulations specifically require that the certifier must be a qualified California HERS Provider and that the training and other requirements of that Provider must be approved in advance by the Commission staff. The only such program in California now is that of the CBPCA; despite its conformance with national requirements and consistent acclaim within the profession, even it will be subject to CEC review and approval just like any other future programs. We suggest that this is quite adequate protection against ineffective or inadequate training and certification of home performance contractors.

In the above comments we have indicated both our reasons for confidence in the home performance contractor approach, as included in the proposed regulations, and our reasons for believing that a regulation solely focused on the independent rater approach would unduly restrict choices for homeowners and contractors as well as raters, and would also fail to meet the ambitious AB32 goals. For these reasons we strongly support the CEC staff's proposed dual approach, in which both the independent rater model and the home performance contractor model are permitted.

Thank you for this opportunity to help make HERS II as practical and supportive of the home performance industry as possible. We will be pleased to discuss or clarify these comments at CEC's convenience.

CALIFORNIA BUILDING PERFORMANCE  
CONTRACTORS ASSOCIATION (CBPCA)

A handwritten signature in black ink, appearing to read 'Robert L. Knight', with a long horizontal line extending to the right.

Robert L. Knight, Program Director