



NRDC Comments on the Proposed Nonresidential Acceptance Testing Technician Certification

Docket No. 12-BSTD-2

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California Energy Commission

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On behalf of our 1.3 million members and electronic activists, the Natural Resources Defense Council (NRDC) respectfully submits these comments on the California Energy Commission's (CEC's) proposed September 2012 revisions to the California Building Energy Efficiency Standards related to acceptance testing for non residential buildings. While NRDC strongly supports the CEC's decision to require acceptance testing and establishment of objective criteria for training/experience for the "tester", the current proposal includes a major structural flaw that prevents us from supporting the proposed revisions as drafted.

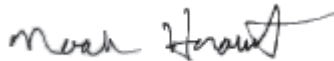
Simply stated, the current draft allows the person/entity that designed, manufactured or installed the system subject to acceptance testing to also perform the acceptance testing. We think it is unsound policy to allow the person performing the work to also be the one who assigns a final grade to their work. This construct is inconsistent with the goals of instituting a post installation verification system designed to ensure the systems meet the California requirements stated in Title 24 and for the State to achieve the desired energy savings and related benefits that were promised.

As drafted, the current proposal contains an unacceptable potential conflict of interest scenario. For example, a contractor on a fixed budget who incorrectly installed a system may be unlikely to properly perform the required acceptance testing and/or properly report the results. If the performance of the installed system does not meet the requirements, the installer may not want this information to be known as it would require them to spend additional labor and expense to bring the system up to code. This risk is elevated in situations where the non compliance will not be readily observed by the building occupants initially.

In order to remove this potential conflict of interest and increase the probability of accurate acceptance testing and attainment of the savings intended by the standard, NRDC recommends the following:

1. Amend the acceptance testing certification requirements such that only qualified, **independent** third parties are eligible to perform the acceptance testing for a given system. More specifically, the party doing the acceptance testing may not have played a role in the design, installation or manufacture of the system being installed on-site.
2. Should the CEC decide against implementing the above proposal, we recommend at a minimum the CEC include a “checking the checker” protocol for systems certified by a non-independent technician. When non-independent certification technicians are utilized, these projects would be audited using a “one in seven” sampling rate, and testing would be done by a qualified “independent” certification technician selected by the CEC.
3. The final CEC requirements shall also include stringent penalties for those parties determined by the CEC to be submitting invalid acceptance testing certifications.

Respectfully submitted,



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