

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
S ACRAMENTO, CA 95814-5512
www.energy.ca.gov



January 24, 2014

Ms. Jennifer Bernardini

Office of Associate Chief Counsel
Passthroughs and Special Industries
Internal Revenue Service
1111 Constitution Avenue NW
Washington, D.C. 20224
Jennifer.C.Bernardini@irs.counsel.treas.gov

Dear Ms. Bernardini:

As you may recall, the California Energy Commission is an Equivalent Rating Network under IRS Notice 2008-35, as a state agency administering building energy efficiency performance standards. Please see the enclosed Energy Commission Order No. 08-910-11 documenting the findings supporting this authority, and the letters dated September 17, 2008, to you and Mr. Eric Solomon, Assistant Secretary, U.S. Department of the Treasury, informing you of the Energy Commission's status as an Equivalent Rating Network.

As an Equivalent Rating Network, the Energy Commission is authorized to approve Equivalent Calculation Procedures for eligible certifiers to calculate dwelling unit energy consumption to determine eligibility for the New Energy Efficient Home Credit under Internal Revenue Code § 45L. Consistent with Section 4.01(7) of Notice 2008-35, the Energy Commission approved the software program, EnergyPro 4.4, developed by EnergySoft, LLC, for use in determining whether California's energy efficiency standards are satisfied. In 2007 EnergySoft submitted, and Residential Energy Services Network (RESNET) approved, EnergyPro 4.4 for New Energy Efficient Home Credit eligibility beginning with tax year 2007, based on RESNET Publication 06-001. RESNET's approval of EnergyPro 4.4 has continued to exist for each tax year thereafter through 2012.

Pursuant to Public Law 112-240, § 408, EnergyPro 4.7 revises EnergyPro 4.4 to change the "reference house" for tax credit purposes in accordance with chapter 4 of the 2006 International Energy Conservation Code; EnergyPro 4.7 makes no other changes to EnergyPro 4.4. EnergyPro 4.7 also has passed the tests that explicitly address software modeling accuracy that appear in Section 4.1.2 of RESNET Publication No. 13-001. Thus, EnergyPro, as revised to version 4.7, continues to produce comparable results obtained under the procedures prescribed in RESNET Publication No. 05-001 (Nov. 17,

Ms. Jennifer Bernardini

January 24, 2014

Page 2

2005) or No. 06-001 (June 1, 2006), and is an Equivalent Calculation Procedure, consistent with Section 4.01(6) of IRS Notice 2008-35. When the list of software programs specified in Section 5.01 of IRS Notice 2008-35 is next updated, the Energy Commission requests that EnergyPro 4.7 be included.

If you have any questions regarding this letter, please contact Mr. Pippin Brehler, Senior Attorney, Chief Counsel's Office, California Energy Commission at (916) 654-5056 or by e-mail at Pippin.Brehler@energy.ca.gov.

Sincerely,

Signature On File

Robert P. Oglesby
Executive Director

Enclosures as required by Section 5.02 of IRS Notice 2008-35 (4)

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September 17, 2008

Ms. Jennifer Bernardini
Office of Associate Chief Counsel
Passthroughs and Special Industries
U.S. Department of the Treasury
1500 Pennsylvania Avenue,
NW Washington, D.C. 20220

Dear Ms. Bernardini:

It is with great pleasure that I forward to you the enclosed Order approved by the California Energy Commission on September 10, 2008, which finds that the Energy Commission is an Equivalent Rating Network and the energy performance measurement methods, which qualify California to be an equivalent rating network are equivalent calculation procedures pursuant to

IRS Notice 2008-35. We applaud the decisions in Notice 2008-35 that recognize California, which has extensively developed building energy performance standards state adopted energy performance measurement methods for demonstrating compliance with those standards, as being fully capable to serve as a rating network for federal tax credit purposes. We believe this is entirely consistent with the intent and direction of the Energy Policy Act's amendments to Internal Revenue Code Section 45L in enacting the New Energy Efficient Home Federal Tax Credit, and provides proper clarification to the IRS Notice 2006-27's authorization of equivalent rating networks.

The clarification of the U.S. Department of Treasury guidance in Notice 2008-35 potentially is of great importance to the achievement of California energy policy, encouragement of high energy performance homes in California and the delivery of their benefits to California citizens, stimulation of the California building industry, and realization of the energy savings and climate change goals that were the original intent of Congress in establishing the federal tax credit.

Thank you very much for your clarified guidance.

Sincerely,

Signature On File
Jackalyne Pfannenstiel
CHAIRMAN

Enclosure:

Ms. Jennifer Bernardini

January 24, 2014

Page 2

Cc: John Mizroch, Acting Assistant Secretary, Office of Efficiency and Renewable Energy, U.S. Department of Energy

David Rodgers, Deputy Assistant Secretary for Energy Efficiency, U.S. Department of Energy Jerome R. Dion, Manager, Building Technologies Program, U.S.

Department of Energy Edward Pollock, Program Lead, Residential Programs, U.S. Department of Energy

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September 17, 2008

The Honorable Eric Solomon
Assistant Secretary (Tax Policy)
U.S. Department of the Treasury
1500 Pennsylvania Avenue,
NW Washington, D.C. 20220

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The clarification of the U.S. Department of Treasury guidance in Notice 2008-35 potentially is of great importance to the achievement of California energy policy, encouragement of high energy performance homes in California and the delivery of their benefits to California., citizens, stimulation of the California building industry, and realization of the energy savings and climate change goals that were the original intent of Congress in establishing the federal tax credit.

Thank you very much for your clarified guidance.

Sincerely,

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CHAIRMAN

Enclosure

The Honorable Eric Solomon

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Page 2

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