<table>
<thead>
<tr>
<th><strong>DOCKETED</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Docket Number:</strong></td>
</tr>
<tr>
<td><strong>Project Title:</strong></td>
</tr>
<tr>
<td><strong>TN #:</strong></td>
</tr>
<tr>
<td><strong>Document Title:</strong></td>
</tr>
<tr>
<td><strong>Description:</strong></td>
</tr>
<tr>
<td><strong>Filer:</strong></td>
</tr>
<tr>
<td><strong>Organization:</strong></td>
</tr>
<tr>
<td><strong>Submitter Role:</strong></td>
</tr>
<tr>
<td><strong>Submission Date:</strong></td>
</tr>
<tr>
<td><strong>Docketed Date:</strong></td>
</tr>
</tbody>
</table>
BEFORE THE
CALIFORNIA ENERGY COMMISSION

In the Matter of:  ) Docket No. 15-IEPR-05
2015 Integrated Energy Policy ) Lead Commissioner
Report (2015 IEPR) ) Workshop

Lead Commissioner Workshop on
Renewable Progress, Challenges and Opportunities

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A, 1516 NINTH STREET
ART ROSENFIELD HEARING ROOM
SACRAMENTO, CALIFORNIA

TUESDAY, MAY 12, 2015
9:05 A.M.

Reported by:
Kent Odell
APPEARANCES

CEC Staff Present

Rachel MacDonald - CEC, Standards Implementation Office
Tav Commins - CEC, Standards Implementation Office
Michael Bachand - President of CalCERTS, HERS Provider
Dave Hegarty - President of Duct Testers, Inc.
Mark Meyers - California Building Officials, the Energy Advisory Committee
Don Charles - USERA
Eric Taylor - Third Party Quality Control Program
George Nesbitt - HERS Rater
Tommy Young - E3, NorCal
Bruce Edgar - Area Manager, Energuy
Shawn Pittard - Assistant Public Adviser
David Meyers - CHEERS, Stockton, CA
Charlie Bachand - CalCERTS, Folsom, CA
Max McKinney - Energy Analysis Comfort Solutions
Brett Dickerson - Attorney
Greg Davis - USERA
Alex Vantaggiato - CHEERS
Kevin Walters - San Francisco
I N D E X

Introduction and Overview
Ms. Rachel MacDonald 5
- Purpose of the Workshop
- Expected structure for the day
- Brief overview and background on past activities
- Public comments and stakeholder interaction

Discussion: Conflict of Interest 10
The Pros and cons of Raters pulling permits and selling products
New regulatory language
Mike Bachand - President of CalCERTS, HERS 14
Provider
Dave Hegarty - President of Duct Testers, Inc. 15
Mark Meyers - California Building Officials, 16
Energy Advisory Committee
Don Charles 20
Eric Taylor - Third Party Quality Control 26
Program
George Nesbitt - HERS Rater 28
Tommy Young - E3 - NorCal 38
Bruce Edgar - Area Manager, Energy 39
Shawn Pittard - Assistant Public Adviser 44
David Meyers - CHEERS 57
Charlie Bachand - CalCERTS, Folsom, CA 59
Alex Vantaggiato - CHEERS 60
Max McKinney - Energy Analysis Comfort Solutions 62
Brett Dickerson - Attorney 66
Greg Davis - USERA 67

Discussion: Energy Commission Oversight of Providers 68
The disciplinary action process
Notification and disciplinary action methods
Development of a Provider compliance web page
Charlie Bachand - CalCERTS, Folsom, CA 72

Lunch Break 11:50 p.m. until 1:01 p.m.
Discussion: Provider Quality Assurance

Introduction and Overview - Mr. Tav Commins

QA performance time frames
Rater field-training "ride-alongs" and/or apprentice-type programs
The pros and cons of Raters attending QA
Rater QA education and training
QA failure notification process
Transparent Rater QA tracking process
QA Rater Compliance and Disciplinary Processes (time permitting)

Charlie Bachand - CalCERTS, Folsom, CA
Michael Bachand - President of CalCERTS, HERS

Provider
Alex Vantaggiato - CHEERS
Don Charles - USERA
Dave Hegarty - President of Duct Testers, Inc.
Bruce Edgar - Area Manager, Energy
Kevin Walters - San Francisco

Max McKinney, Energy Analysis Comfort Solutions

Next Steps and Closing Comments

How to file comments - Rachel MacDonald
Rule-making process overview
Staff Workshop on QA (date TBD)

General Public Comments

Adjournment

Reporter's Certificate

Transcriber's Certificate
MS. MacDONALD: Okay. Good morning. Let's go ahead and get started. Okay. So welcome, first off, and my name's Rachel McDonald. I am with the California Energy Commission in the Standards Implementation Office under the Efficiency Division, and today's Workshop's about the Home Energy Rating System Program, specifically the scope of field verification and diagnostic testing issues. So welcome, and everyone on the phone, welcome.

And a couple housekeeping things. For those on the phone, the WebEx, you're muted upon entry. If you're logged in you can raise your hand if you have a question or a comment, you want to speak. We will pause at times to unmute those that are teleconferenced in only, that don't have Internet capability, for comments.

The WebEx is also being recorded and will be immediately available online in a couple days. And then we have a Court Reporter here, as well, and the transcripts from that will be available probably in about three to four weeks, I believe. Those will also be posted online.

We have restrooms out the door to your left, and then you turn right, men's and women's. There's
also snacks on the second floor. And I did not schedule breaks for the morning or the afternoon. I've just scheduled a lunch between 12:00 and 1:00.

So break at you need. This is being recorded and you're -- this is meant to be a friendly discussion today. And so if you feel you're missing anything, we'll have the opportunity to catch up.

So the purpose for today is that we are all here together and on the phone, and we're working on this openly and transparently, specific to field verification and diagnostic testing. We want to begin developing recommendations going forward so we can start drafting regulatory language.

And we want to have this open and facilitated, that we go forward to improve the HERS Program. The whole purpose is that -- of today, all future Workshops and interactions in general is that we're working to improve the HERS Program through this order instituting information.

We want to touch on procedural process time line and activities, and I'm going to do that in the following slides. So going through the comments from a Webinar that occurred March 10th, we had a Webinar that basically reupped and kicked off the OII effort, which is an informal process.
It's a formal process in that it's public. So an OII is the Order Instituting Information Proceeding. So we have a docket for it and it's public process, and it began in 2012 and we are kind of refreshing it, and that initial effort to refresh it was a March 10th Webinar.

And we took comments from that, and based on those comments for today we've identified the following issues as really high priority that we want to work on with you on the subjects of Conflict of Interest, the Energy Commission Oversight of Providers, and Provider Quality Assurance, QA.

So we want to do this publicly and start working on getting into more granular, finite details for writing proposed regulatory language for future role-making. We're going to talk about some of that today.

And what I mean detailed, I mean in that actually getting into, if we want to look at something, a process occurring within a certain amount of days, what amount of days is reasonable, that type of detail.

And so overall, we just want to start working to develop processes and plans and, you know, basically the idea of brainstorming for improving the HERS Program. So I anticipate a lot of public comment, both
on the phone and in person here today.

So in doing so, if we can keep -- if you can
keep your comments succinct and specific to the subject
that we're talking about, that would be helpful. I also
courage everyone to submit writings and -- oh, submit
writings and comments -- submit your comments in writing
to the docket.

And within this actual presentation that I
will post online, available online, you can always email
me, has all the docket information. And I ask --
there's a lot of different opinions on various subjects,
and I just respectfully ask all people present and on
the phone that we, you know, respect each other and
respect staff and that we agree that everyone has
different opinions.

So a little bit about the background of the
OII that I was speaking about. The intent for the OII
is to gather information, and the intent of the HERS
OII, when it began in 2012, as it is today, is to
improve the program, to develop and gather information
to improve the program, and that will basically lead to
rule-making.

And rule-making is how we develop and
institute the regulatory process. And so once we're in
the OII process right now, which is also called pre-
rule-making, and so that's all public. It's gathering
information and brainstorming.

And then when we go into the rule-making
process, that's formal. It's also public. When we kick
off the rule-making process it occurs and it is
concluded within 12 months. It again is open public
participation, and that includes public Workshops,
comment periods, you know, posting of documents and
comment periods, and this is all to create a transparent
record for public and judicial review.

And I anticipate going into rule-making
probably at the end of this year, early January of next
year. So again, the issues that we've identified from
comments and interactions are Conflict of Interest,
Energy Commission Oversight of Providers and Provider
Quality Assurance.

I understand we had asked questions in regards
to rating companies, Provider categories and in staff
review of that at this time, they weren't -- didn't seem
like they were the highest priority for us to address
that we really had burning questions about.

I'm not saying that those issues aren't
important. What I'm saying is that for the context of
today's discussion we're going to focus on these issues.

And specific to Quality Assurance, we have decided
there's so much for QA, so much to cover, so much detail
and so much discussion, we're actually going to schedule
another Workshop for QA only, so specific to QA, later
in June, early July.

So that information will be coming forth. I'm
not clear if I'm going to do that in person or with the
opportunity to call in or do it strictly Webinar. We
can discuss that offline. I'm open to whatever works
for stakeholders.

So we're a little early, but we can go ahead
and kick into the subject of Conflict of Interest. I
believe I have a lot of people on the phone calling in
about that. When we talk about Conflict of Interest, I
want to understand, and it's specific to the question
that's being raised and heavily discussed, and that is
Raters providing other services, specifically, Raters
pulling permits.

Staff here, we need to understand, as we look
forward to future development of new language, we need
to understand the pros and cons of Raters either pulling
permits or Raters, you know, offering other services,
and that would include selling products.

I understand that there might be Raters or
Rater companies that offer other services, and we need
to explore what are the pros and cons of those things
occurring, because we don't want -- it's not our intent
to be prohibitive of individuals prospering.

That's not -- you know -- we have to -- that's
why we need to discuss these things and figure out how
best to proceed. And so in exploring new regulatory
language, we would need to understand specifics.

Do we get explicit with things that may or may
not strictly occur or are there parts of the existing
language that we strike. Those are the types of things
that I want to explore today. And so for example, I've
put down independent entity.

The actual language in black meaning,
independent entity means having no financial interest in
and not advocating or recommending the use of any
product or service as means of gaining increased
business with firms or persons specified in section
1673(j).

The blue part is kind of what I added in
there, just for the sake of discussion. I'm not married
to this. I just am putting this in here for the sake of
thought and evoking conversation. So if we were to
discuss changing this to either expressly allow or
prohibit certain practices, you know, what might that
say.

And then right here for reference, I've
included the actual existing language. And if anybody
in the room or on the phone needs me to toggle forth, I
did provide copies of the Regs at the front, and then I
have it here.

For those of you on the phone, the Regs or the
2009 published regulations are available online, and
this is the 1673(j) Conflict of Interest definition.
And I think what it does is it references actual
definition language, which is the independent entities.

This is the exception for whole house, and
then I think these are the actual definitions provided
that are causing some strife right now, which is
"independent entity" and "financial interest."

And so I see someone's got their hands raised,
and so with that and the fact that we're all here and on
the phone, I'm going to go ahead and ask stakeholders in
the room, if you have comments you can come to the mic
and speak, and go ahead. I see Mike. Good morning.

And then also, I think there's a sign at the
podium, but it also says, you know, provide your name so
the Court Reporter can capture who's speaking.

MR. MIKE BACHAND: Good morning. Thanks,
Rachel, for the Workshop and the interest and
everything. I'm Mike Bachand. I'm the President of
CalCERTS, HERS Provider. I want to just put a little --
couple of my definitions onto what your legal things are there.

I've seen letters from lawyers and stuff about financial interests and independent entities. Because they're different companies, HERS rating companies and HERS Raters are different entities, by definition. They're not part of the contractor's company.

That's one thing. The other thing is, I want people to remember that the original and the still existing regulations say that the HERS Rater is working for the homeowner, not the contractor. The money may pass through the contractor, but it shows a trail from the consumer to the contractor to the Rater on behalf of the consumer.

So what I think is the existing process, if that's not working, okay, we need to change that. But as regulation stands now, I believe that the homeowner is injecting all of the money into the system. That's the only place money comes from in the whole food chain.

And so I believe that a HERS Rater who might be pulling a permit is not pulling it for the contractor. It's making it easier, if the homeowner has asked the contractor to do it, whatever, I still think -

MALE SPEAKER: Oh, he's got the wrong idea on
MR. MIKE BACHAND: -- I still think that the HERS Rater is working on behalf of the homeowner and that's the end of my comment. Thanks.

MS. MacDONALD: Thank you, Mike.

MALE SPEAKER: Got a lot of noise there. Where'd everybody go? Did we lose the connection or something? Can you hear me? I don't hear you.

MS. MacDONALD: We can hear you. We actually are trying to figure out some of the background feed noise right now with the WebEx.

MALE SPEAKER: I'm not hearing the meeting at all. Where's the meeting?

MS. MacDONALD: The meeting's here in Sacramento. They're not -- can you grab Rick.

MALE SPEAKER: Did they lose the audio or something?

MS. MacDONALD: No. Can you grab Rick and an IT?

(Pause.)

MS. MacDONALD: Yeah, that's weird. For those of you on the line, can you -- is it possible to send a message through if you can hear me okay? We went and grabbed IT. Do you have any idea, James? Okay. Well, hopefully, we get this resolved for those on the phone,
because I have full audio here in the room.

Dave, I see you got up to stand, so why don't you go ahead.

MR. HEGARTY: Thank you, Rachel. Dave Hegarty, Duct Testers, Incorporated, from Ripon, California, in comment to Mike Bachand, CalCERTS. I think, first of all, everybody knows that I oppose this Raters pulling permits, and that I think the language is clear and not ambiguous.

So let me read something from Title 20 interpretation from the CalCERTS Rules to help decipher this thing. It says, "The HERS Raters should not have any business or financial relationship with the person or companies whose work they are inspecting. Outside of the act of performing field verification and diagnostic testing, Raters are directly responsible to the local code enforcement agencies."

And so if you look in all these Providers' manuals that we have available to us today, and every one of them have an example. I think it's 2.4.7, RA 2.4.7, and it shows example 2.7. Have you got that, that you can pull it up?

MS. MacDONALD: That is in reference to the -- that's for the Reference Appendices.

MR. HEGARTY: Yes.
MS. MacDONALD: For the difference between the
third party Quality Control Providers and giving them
explicit -- or reference that they -- I don't have it on
me, no.

MR. HEGARTY: Okay. So in 2-7 --

MS. MacDONALD: It's 2-7 Reference Appendices.

MR. HEGARTY: -- 2-7 is an example by the
State of California in their own words as to the
Conflict of Interest, and it sets forth that they will
also -- this is where this interpretation comes from,
and if we could get the 2-7 to get up on the board,
everyone can see that as it stands, I think it's clear
and not ambiguous that Raters cannot pull permits, and
that in every one of the Providers' manuals for teaching
and training they have this example, 2-7 out of RA
Manual, 2.4.7. Thank you.

MS. MacDONALD: Thank you. I have some people
on the phone. Specifically, I know Mark Meyers has been
waiting. Did you want to -- can you unmute Mr. Meyers?

(Pause.)

MS. MacDONALD: Okay. Unmute all.

MR. MARK MEYERS: Okay. Very good. Now, can
you hear me?

MS. MacDONALD: Yes. Is this Mr. Meyers?

MR. MARK MEYERS: Yes. Thank you. This is
Mark Meyers. I call in today representing the California Building Officials, and specifically, the Energy Advisory Committee. We've had a meeting on this topic as recently as yesterday with the Panel and our Committee, and a number of others that are very concerned about this issue.

For Building Officials, we believe that the Raters are our third party inspector. They're doing work for us, and we also control some of the work they do. I know if we have advisors -- or I'm sorry -- third party inspectors that are not doing the work properly, we can every ban them from continuing to work in our jurisdictions.

As such, if we were to be able to obtain permits for inspectors -- I'm sorry -- for contractors, they have to have an Agency letter with that contractor, or they have to have an Agency letter with the homeowner.

In that case they wouldn't be pulling permits for the contractor, and the contractor's required to obtain these permits. So either they've got to develop a close business relationship where they would in fact have Agency, or they are not going to be pulling the permits in fact for contractors.

And what we've flat out said is we've had a
couple of them try in our area and I know others have, as well, and we've told them, you can pull permits here but you cannot be the third party Rater on those jobs that you choose to do that.

And he goes, well, I can't do that because I'm supposed to be the Rater; then you'll need to obtain somebody else to get the permits on behalf of the contractor. The other thing is, this creates a business relationship between them that requires them either to make money as a part of obtaining these permits from the contractor, which means they're either the agent or they become an employee.

They're being paid by them. They're doing work on their benefit. So we believe this is far too close a relationship and I believe that, Ms. MacDonald, you've already received some emails in regards to this. There are more on their way.

But for the California Building Officials this is far too close a relationship for them to obtain their and retain their objectivity that we believe is necessary in doing this work. Thank you.

MS. MacDONALD: Thank you, Mr. Meyers. I have a question for you.

MR. MARK MEYERS: Yes.

MS. MacDONALD: As the language reads, and
should there be a change to the language, for example, as we go through rule-making and the language is expressly says, "Raters may pull permits," then what does that mean to the Building Department if it is expressed in our language that that may occur?

MR. MARK MEYERS: Well, after discussing this with quite a large number of building officials, most say that at that point in time we would change our local requirements and prevent them from both obtaining permits and doing the third party rating, because we believe they are losing objectivity at that point in time.

We also would refer back to much of the information that you've already provided this morning. One of the items that we looked to was out of the 2013 Compliance Manual under the Frequently Asked Questions. And you have an example in there, I think it's called 2-7. And it specifically has answers in there regarding this where HERS Raters are expected to be, "objective, independent, third parties when they are fulfilling their duties as field verifiers and diagnostic testers. In this role they are therefore serving as special inspectors for the local enforcement agency, and by law, HERS Raters must be independent entities from the builder or subcontractor, installer or
the energy efficiency features being tested and verified.

"They can have no financial interest in the installation or the improvement. HERS Raters cannot be employees of the builder or subcontractor whose work they are verifying. Also, HERS Raters cannot have financial interest in the builders or contractors' business, or advocate or recommend the use of any products or services that they are verifying."

That right there I think draws a very clean, clear line that in order to be a agent of the contractor they're building that relationship. They can't just pass these permits through. They're either going to be paying the premium on them or the contractor's going to.

So they've built in a financial interest. So in that case I believe in order to maintain the objectivity, which we believe is so necessary in this field, we would simply have to go with further legislation on the local level and block them.

MS. MacDONALD: Block it. Okay. Thank you.

I know Don Charles is on the phone, and I can see he has his hand raised.

MR. CHARLES: Yeah, hi. Can you hear me?

MS. MacDONALD: Yes, Don. Go ahead.

MR. CHARLES: Okay. Completely agree with
Mike's comments. First of all, I want to read a little excerpt from a letter that I submitted, but it basically says, "As far as USERA is concerned and has been, we desire to enforce code and be a standard bearer in the industry for doing such.

"This particular matter, however, seems to be somewhat muddy as it pertains to rating companies and how this clearly written section of CEC Code applies to them. USERA does not believe that it needs to be muddy and believe that rating companies should fall under the same rules and regulations as actual Raters, since they are representing this process, just in greater volume.

"In fact, for this reason USERA believes that they can carry an even greater responsibility, since they are ultimately impacting greater numbers of homeowners through a single entity. USERA is not suggesting that the owners of rating companies need to be certified as HERS Raters if they themselves are not performing ratings.

"But USERA is saying that they need to be held to all the rules and regulations since they are in -- they are in fact performing HERS ratings through the employment or contracting of HERS Raters and acquisition of contractors for that very purpose.

"For all intents and purposes they are
representing the HERS Rater industry in administrating
and selling HERS rating services and benefitting
financially for doing so. As such, they should, by code
definition, be held to the very same standard."

In saying that, USERA wants to stress that it
does business with some very successful rating companies
and they're completely fine with the existing rating
companies. But some of these concerns that are being
raised are coming directly from these rating companies
on this particular topic.

Conversely, the Third Party Quality Control
Program has explicit permissions. And when I mention
rating companies I also -- this also applies to Raters
and rating companies. But conversely, the Third Party
Quality Control Program has explicit permissions granted
to them, as defined in RA 2.7, which we've been talking
about, that grant them a specific ability to offer
services to contractors.

The CEC was obviously very careful and wise to
make these definitions, which state the roles and
responsibilities of the various participants in this
process and permissions they have and do not have, and
one rule confirms and supports the other very nicely.

Where one has a conflict of interest clearly
defined and understood by the industry at large as a
conflict, which I think Mike is attesting to and I've had many Raters attest to that, the other grants specific permission to sell services to installing contractors.

I'm really still -- I'm off my letter here now, but I think RA 2.7 I think is such a clear piece of code, as is 1673(j), it was very concisely written to separate what one party could do versus the other, and I'm really not quite sure why we're still even talking about this issue.

I think the CEC's intent, their code was written very specifically. There is absolutely no question in my mind, and I think in most of the industry's mind, that if a Rater is doing something outside of the confines of being an auditor and they're performing some other sort of side admin function for a contractor, there's definitely a question of whether or not they can maintain their objectivity.

It's not that pulling the permit itself necessarily creates that. It's the fact that they are now engaging themself in providing other services to that contractor for the opportunity to gain their rating business.

There is absolutely no other reason for a Rater to pull a permit for a contractor except to get
their rating business. That would fall under the
independent entity clause and what it means by
additional services for financial gain.

There's absolutely no question that short of
the rating, the Rater would not even offer to pull the
permit. It's directly linked. I think it clearly
violates code and I'm not even quite sure why we're
discussing this anymore, and I'm also not quite sure
what the CEC's position is moving forward.

I get the feeling like they're trying to
figure out a way to include this in future code, and I
don't understand it, because most of the industry is
clearly, clearly against this.

MS. MacDONALD: So Don --

MR. CHARLES: So --

MS. MacDONALD: -- sorry to interrupt you.

MR. CHARLES: -- look --

MS. MacDONALD: Go ahead, Don, finish. I'm

sorry.

MR. CHARLES: Go ahead, that's fine.

MS. MacDONALD: Because I have a question in

the statement you just made.

MR. CHARLES: Yeah.

MS. MacDONALD: So my question to you was, you

just commented saying, you know, you get the feeling
that we're leading, and I wouldn't say leading.

Exploring is a good question and that's the purpose of gathering this information.

And the true intent of today's meeting is that we are -- on this particular subject, it's a lively subject and we are talking about the here and now. But the intent of information gathering for pre-rule-making is to explore and think about new.

So leading, not necessarily. Exploring and thinking about new, yes. So by what I hear you saying, if I'm correct, then, is that if we explore and think about new regulatory language, if it did or didn't say that these types of services would be allowed, your thoughts would be no, correct?

MR. CHARLES: My thoughts would be most of the time when you're exploring new ideas and new opportunities it's because the industry at large is asking for it. And I think that right now it is very clear that the majority of the industry not only opposes this, but clearly, they're not asking for it.

So to me, it seems that the CEC is taking some sort of a lead role in trying to really explore this, and I don't understand why, because the majority of the industry is certainly not asking for it and in fact, is opposed to it.
So I don't even understand why, again, you know, as a business person when I ask my staff to come up with ideas it's because there's a need or there's a reason that it's so obvious to do it, not something that we are trying to fight and figure out a way and our customers are going to be upset if we do.

And I guess I just don't understand why it's even being explored at this point when the majority of the industry is clearly opposed to it.

MS. MacDONALD: Thank you, Don. George --

MR. TAYLOR: Rachel, this is --

MS. MacDONALD: Oh, I'm sorry.

MR. TAYLOR: -- Eric.

MS. MacDONALD: Eric.

MR. TAYLOR: This is Eric Taylor from the state Third Party Quality Control Program. I couldn't raise my hand. I apologize if I'm stepping on somebody, but may I speak on the subject?

MS. MacDONALD: Eric, go ahead. We have some people in the audience, too, but go -- go for it.

MR. TAYLOR: Okay. I apologize. I couldn't raise my hand on the screen. My input on this subject is, is that the Third Party Quality Control Program had to adhere to rigorous, rigorous rules, probably more-so than even the Providers that had to get an approval with
the California Energy Commission.

And there needs to be an exploration of the Third Party Quality Control Program, and the subject because we have been given permission to do -- to work with contractors, to help contractors to kind of raise the bar in the marketplace to give them automated equipment that basically streamlines their operations.

And the CEC told us that that highest accountability and, you know, what goes along with that is a very large expenditure is all the Providers on the call will -- can attest to. And we had to innovate to get to where we're at, to have that relationship with the contractors, because we have oversight over the Providers.

Any Provider that wants to attach the Third Party Quality Control Program to it, we still have to upload and submit our one in 30 jobs to a Provider-ship. And so having that oversight and that understanding, I completely agree with Mark Meyers and others that are against Raters having relationships with contractors, because I know what type of relationship it takes to basically keep a contractor on board and to teach them all the rigorous rules.

And so I'm completely opposed to having Raters pull permits for contractors and having that business
relationship.

MS. MacDONALD: Thank you, Eric. At this time we're going to mute the lines for quality control purposes. It helps with the recording is what I'm trying to say.

MR. NESBITT: George Nesbitt.

MS. MacDONALD: Hi, George.

MR. NESBITT: I do wear steel-toed boots. So if you want to step on my toes you'll probably hurt yourself. So I believe in the standards in Title 20 you do actually define a HERS Rater as a special inspector to the local jurisdiction.

The question, and actually, I'll ask that you bring the guy from CALBO back on, is what does it mean to be a special inspector. So I'm working on a project where special inspection was required, and it's been performed by the incompetent structural engineer that did the work on the job.

I say that because I've had to fix his work. So at what point is a special inspector, does a special inspector have to be an independent third party. And that is the intent of our HERS Rater regulation, is that we are independent third parties.

So I guess that's a question, I think if we can answer that from the local jurisdiction standpoint
MS. MacDONALD: Okay. Thank you, George. So you want to direct that question to Mark on the phone, Mr. Meyers?

MR. NESBITT: Yes.

MS. MacDONALD: Okay. At this time we're going to unmute Mr. Meyers. Are you still there, Mr. Meyers?

MR. MARK MEYERS: Yes, ma'am. And oh, we're still muted.

MS. MacDONALD: No. I have -- I can hear you.

MR. NESBITT: We can hear you.

MR. MARK MEYERS: Oh, okay. Very good. Yes, I'd be glad to speak to the third party. Number one, the local jurisdiction has the ability to approve all third party inspectors. And typically, we do not allow third party inspectors to ever work for the contractor.

In the case that was representative on special inspections for structural elements we would require that the third party work for the designer architect or the owner, but he cannot work for the contractor, which is consistent with our position on third party Raters for the Energy Commission items, as well.

I might also add that I believe that much of this is being driven by what people perceive is a
difficulty in obtaining permits. And after AB 1288 for solar requires all of our jurisdictions by this September to have in place means by which inspections can be scheduled, permits can be obtained through electronic submittal, through fax submittal and being able to obtain these permits over the Internet or other means that we find capable, we're all working towards that.

And for quite some period of time in my local jurisdiction we've allowed contractors to submit their application and their energy forms by fax or by email. We prepare the permit here. If they choose, they can pay for it online or they can simply come in here, pay for it, pick up their permits and be on their way.

So this is all about ease. I believe all departments within California are rapidly working to put these items in place, because they've been driven legislatively by 1288 and they are soon expanding it to other areas. So I believe the ease of getting permits is being addressed, as well.

MS. MacDONALD: Thank you, Mr. Meyers.

MR. NESBITT: Thank you.

MS. MacDONALD: So you are going somewhere with that, with the comment on the ease of permits, and that is something that we want to support, because we
want, as an agency we want permits being pulled, especially specific to this industry, the HVAC industry and change outs, alterations, knowing that I believe we understand that it's less than 15 percent have permits being pulled.

So as an agency with legislative direction and goals from our governor for energy efficiency and you mentioned AB 1288, we also have AB 758 that we want to increase permitting.

MR. MARK MEYERS: I guess I would also make a comment there that the greatest difficulty we have in being able to currently issue permits is the extremely difficult issue of insuring that the applicant has all of the proper forms.

And for a simple HVAC change out this can easily be five to six forms through the process. And while understanding that is not terribly complex, getting training to the contractors so that they understand or would use resources such as code energy ace -- Energy Code Ace to get the proper forms, get them filled out and bring them in, that is the greatest hurdle we see at the moment.

Now, certainly, there are contractors who are working outside the guidelines. Some may not even be licensed and others are purposely permit avoidance.
because the work that they want to do would not meet the current code requirements, either from a life safety standpoint or from an energy consumption standpoint.

And I believe there are other methods that we can look at that aren't necessarily a part of today's discussion to improve that compliance.

MS. MacDONALD: Thank you. We're sitting here taking notes feverishly.

MR. CHARLES: This is Don Charles. Can I just say one quick thing?

MS. MacDONALD: Don, go ahead.

MR. CHARLES: I just wanted to also add that, you know, increasing the ease of it is one thing, but changing the responsibility of the party responsible for pulling the permit is a whole other deal.

I think there are many ways through technology and different means, and as Mike, you know, said, there are different ways for contractors to get educated and help out there to do their job and follow through on their responsibility.

Changing the rules to say where that responsibility lies is a whole other discussion. And the last comment that I just want to make on this is I have asked that while this discussion is taking place I would really like to see the CEC put a cease and desist
out there to any Raters that are engaged in this practice right at the moment for a couple reasons.

    One, I think it's the commonly understood thought of what the code really means, and most people are trying to adhere to that code and not violate it. Two, if this code is changed in the future to where Raters being allowed to pull permits is allowed, you are giving an unfair market advantage to the Raters that are currently doing this against what other Raters feel is a violation of code.

    And I think until this argument is really defined clearly I think any activity toward that end should stop immediately.

MS. MacDONALD: Thank you, Don. George, did that answer your questions from Mr. Meyers?

MR. NESBITT: Yes. So George Nesbitt again. Just to kind of hit on that, I would say in the case of a special inspector, even though they work for the owner they're the ones that perform structural engineering and they're then inspecting it.

    I still say that's -- personally, I think that is a conflict of interest and that comes out of a lot of personal experience, which I won't get into. So the intent is that we HERS Raters are independent. We're third party.
We're special inspectors to the local jurisdictions. The tension here is between the ideal of what the code says and the reality of the marketplace, I think. We get a lot of our work through the contractors.

They're the ones that they need the HERS Rater. They pick up the phone. They contact the HERS Rater. They schedule it, so on and so forth. I think one of the difficulties is that -- well, when you fail people you never get called back. You may never even get paid, and I'm sure we've all felt that pain in this room.

Here's the problem. And I also think we need to sort of segment field verification, diagnostic testing, or what I'd call HERS verification from the HERS II, HERS Rating System, and further, the independent rater from the building performance contractor, because I think when you get to even a HERS II Rater you're making recommendations as to work they should do, what they should do, products they should use.

The building performance contractor can not only make those recommendations, but do the work, although they cannot serve as the independent third party, HERS verifier if the code triggers it. So we
sort of have three bins.

MS. MacDONALD: The whole house side is --

MR. NESBITT: Yeah.

MS. MacDONALD: -- we're getting to that later this summer.

MR. NESBITT: Yeah.

MS. MacDONALD: Start working on it a whole lot. And you bring a good --

MR. NESBITT: No. No. I just --

MS. MacDONALD: -- you bring up an interesting point.

MR. NESBITT: Because so here's the problem. You say we work for the owner. Okay. We're doing change outs. We're doing 100 percent inspection because the contractor doesn't own equipment and they don't know how to use it.

We can work directly for the owner, right? No problem. That simple. Every owner is paying for HERS verification. Now, let's get to sampling, one in seven. Which homeowner pays for the one test, plus for the rest of the sampling?

No one homeowner should bear that cost. So the reality is, we have to be paid by the contractor. The contractor somehow has to figure that into all their costs.
MS. MacDONALD: So you're pointing to the dependence on the contractor?

MR. NESBITT: Yeah.

MS. MacDONALD: Regardless of the intent of --

MR. NESBITT: And obviously, there is an incentive for Raters to be able to perform services, whether it's pulling permits or whatever else, charging air-conditioners, whatever else that goes on out there, there's an incentive in order to get that work.

So unless you decouple the HERS Rater and the contractor completely, sort of like what happened with home appraisers, I'm not saying that what happened ultimately is good either. That's created its own problems.

So it's tough. You know, how do you completely separate us? Obviously, a HERS Rater could pull a permit for the homeowner as agent for the owner. That would clearly not be a conflict of interest. Yet, pulling it for the contractor certainly would seem to fall under a conflict.

So you know, I'm just kind of throwing it out there. I, you know, and the other thing is, we're working with contractors. Who's the best person to train contractors as to the rules, requirements, how to do things?
Honestly, it's the Rater. They ain't going to Stockton or wherever else. They're not going to classes. They're not getting training. They don't understand it. If you want a CF2R or a CF6R, damn it, as a HERS Rater you got to fill it out yourself, because you're never likely to see it.

And they're not going to put the right information on it anyway. So how do we -- you know -- what we ultimately want is compliance with the code. We want things to be right, that they actually comply. And so there is a big tension.

Now, you know, in RESNET, RESNET allows conflict of interest between Raters and contractors. And I've spoken with Raters who actually work for companies that had conflict and they went independent, because a lot of people don't like that idea.

So there's this tension between the independent third party and the fact that we have to have some sort of relationship and close relationship with those that we're testing. And I'm not suggesting I know exactly how to resolve it.

MS. MacDONALD: Thank you, George. On the phone I understand I have a Tommy Young. Tommy, are you there?

MR. YOUNG: Yes, I am. I was actually typing
in my response and so I'll just read it verbatim. Tommy Young, E3 California, and I think this can easily be handled. I think it's an issue that can be determined by the Labor Board and EDD.

If a HERS Rater should be legally listed as an employee then this all becomes a moot point. It's clear to me, at least, that the Rater pulling a permit should be classified as an employee, per the EDD Guidelines. It's pretty clear that one of the questions of the top three questions is, is the work being performed part of your regular business.

It is. Pulling a permit is part of your regular business. If the Rater can't do it, you or you send in -- it's either you that goes and picks it up or an employee. To me, I mean, I've been over these, you know, mixed classification of laborers or employees versus independent contractors, and I just -- you know -- right or wrong, I still think it comes down to a Labor Board issue. And if anybody wants to comment, they can. Otherwise, you can just consider that my comment. Thank you.

MS. MacDONALD: Thank you. I have someone walking up to the podium. Go ahead. State your name, too. Good morning.

MR. EDGAR: Morning. My name is Bruce Edgar.
I'm the area manager for the Energuy. We're a statewide rating company. We also have permit runners that pull permits for our clients, because our business is anything to do -- can do to make it easier for the contractors to fulfill all the requirements. So we do pull permits, as well.

I can tell you that I'm area manager. I'm also a Rater. I work in the field every day. I can't speak to the code. I don't know it as well as the other people here, but I can tell you that as a Rater it makes no difference to me whatsoever whether our company pulled the permit for a contractor or not, in my verification of what's the meaning of the code at all.

I also would like to say that while one of the speakers before was talking about unifying the processes for getting permits, I've heard a lot of talk about that. But I got to tell you, we go to different building departments all day long, and man, they are way far away from any kind of unification whatsoever.

As a matter of fact, most of them feel, and as they should, that they actually have authority to -- they're actually the final authority for the code, the local code, and the local code departments. So it doesn't even matter to them what the CEC says. So unification to me is way down the road.
The other thing I'd like to say is that, again, even if pulling a permit may be deemed by the text of the code as a conflict of interest, I got to tell you, financial interest evidently means everything except for getting money from the contractor, because that's what we do.

We are hired by the contractor and all the language that says that, yeah, the money comes from the homeowner, well, in the down and dirty when it gets real, we're going to the contractor. We're trying to sell our services to the contractor, and it's a very delicate situation to be in, because we have to uphold the code and get their continued business, and that's a very difficult position to be in.

So what we would like to see would be an erasure of the ultimate conflict of interest that we're all in, and that is getting the money directly from the contractor. That conflict of interest pales completely in comparison to any other thing that you're talking about here today.

And I think it can be done. I think rating companies and Raters can market directly to homeowners. I think that that would be a benefit to the homeowners. I also think that we could deal with sampling, and if we can go that route, then all the other conflicts of
interests basically are very small and they go by the wayside.

MS. MacDONALD: Thank you. So what I'm hearing you say is for new thought, for future thought, is specifically identifying where the relationship, the financial dependence, the relationship between the Rater and the project they're rating lies, and that would be removing the contractor and targeting the homeowner. Is that what you're saying?

MR. EDGAR: If you want us to be loyal and have a -- if you want to see a fiduciary responsibility to the homeowner, then we should be paid and contacted by the homeowner directly.

MS. MacDONALD: Okay.

MR. EDGAR: Otherwise, it's all moot.

MS. MacDONALD: And can I ask you, you indicated you had permit runners.

MR. EDGAR: Um-hum.

MS. MacDONALD: So are they rating, too? They're just specifically --

MR. EDGAR: They're just permit runners.

MS. MacDONALD: -- pulling permits. They're just staff?

MR. EDGAR: Right.

MS. MacDONALD: Okay. Thank you.
MR. EDGAR: Okay. Thank you.

MS. MacDONALD: Dave, I see you in the audience.

MR. HEGARTY: Dave Hegarty, Duct Testers, Incorporated, Ripon, California. Just to comment on that. There is a way to do that for other Raters who do work with their supposed clients, the contractors. You ask the clients, your contractors, to ask the homeowner to pay. So it takes that completely out of the equation.

So you may be recommended by that contractor, but the homeowner pays you a check and that's easily done in any application, so. I'd just like to also comment on an important part, one sentence, two sentences in Example 2-7, which I would really like to see on the board.

"By law, HERS Raters must be independent entities from the builders or subcontractors, installers of the energy efficiency features being tested and verified." That's the first one I'd like to emphasize.

And then finally, in that same example it says, the Energy Commission's own words, "The closer the working relationship between the HERS Rater and the subcontractor whose work is being inspected, the greater potential for compromising the independence of the HERS
Raters."
Those are exact, out of the 2-7 examples that
I think needs to be put on the board.

MS. MacDONALD: Those are from the 2013
Reference Appendices.

MR. HEGARTY: That's correct.

MS. MacDONALD: Yes. Thank you.

MR. HEGARTY: And included in every one of the
-- I've looked in all of the Providers, and they all
quote this one, to give you an example, and all the
Providers --

MS. MacDONALD: They quote that in their
training materials or --

MR. HEGARTY: Training materials, yes.

MS. MacDONALD: Okay.

MS. MacDONALD: Just clarifying.

MR. HEGARTY: And all of the Providers teach
that. So I don't want to -- you know -- I think as Don
at USERA said, and I echo his comments here, we're
creating a huge issue where it already is illegal,
according to code and clearly written, we're allowing
people to do it that shouldn't be allowed and creating a
bigger mess for the Providers to have to clean up when
they don't have the money to do QA as it is now.

So those special inspections or those
complaint processes that we all go through that are so
expensive for the Providers, it makes a bigger mess for them to have to try to go back and clean up from those that are doing it now and investigating that. Thank you.

MS. MacDONALD: Thank you, Dave. I do know at this time -- hold on, George -- I have our public adviser in the room, Shawn Pittard, and I was asked, we have an individual that wanted their docketed comment read onto the record, and so our Public Adviser's Office will do so.

MR. PITTARD: Great. Thank you, Rachel. My name is Shawn Pittard. I'm the Assistant Public Adviser and I will read Mr. Jeff Shields comment into the record. Okay. This is a memo to Rachel from Mr. Shields. He's the General Manager, South San Joaquin Irrigation District. This was filed and docketed on April 28, 2015, in preparation for the previous Webinar.

"This memo is in support of preserving the independence and professional integrity of HERS Compliance Raters as required under Title 20. The public is increasingly frustrated by conflicts growing out of, with protecting the public trust and assuring that industries that operate under their jurisdiction do so according to statute.

"As we have seen with the CPUC, relationships
that are required to be independent and objective have become blurred by internal rationalization and/or staff interpretation of regulations.

"In the end, it is the credibility of the regulatory agency that is tarnished for condoning a culture of conflicts of interest." Mr. Shields cites CEC Residential Compliance Manual, CEC-400-2013-001-CMF.

"While there may be a convenience associated with a HERS Rater engaging directly with a builder to secure a structural permit from the local government, there is also a perceived, if not legal, conflict created between the builders, Rater and local jurisdiction.

"I suspect that this issue has not been discussed in a public proceeding on the Commission's Agenda. To that end, I would ask that the Commission take the opportunity to debate this issue during a public hearing.

"Thank you for considering this communication. I am happy to come to Sacramento and discuss this in more detail, should you wish to do so."

MS. MacDONALD: Thank you. Well, we are in a public setting right now discussing this. So thank you, Mr. Shields, for your comments on the record, and thank you, Shawn, for reading that.
MR. PITTA: Sure.

MR. NESBITT: George Nesbitt, just a couple quick things. When a contractor goes to a Building Department, pays for the permit, I don't think we perceive that as a conflict of interest between the contractor and the Building Department, the inspectors.

So the thing is our standards, the rules, our sampling, is all based on a contractor, and in order to sample, you know, it has to be the same contractor, the same jurisdiction and obviously, you can't have multiple Raters sampling those groups.

So the question is, how do we actually, then, pull it apart. Unless the contractor pays the Building Department fees for the HERS Rater and the HERS Rater gets paid from the Building Department, you know, that or, you know, the thing is if we only get paid from the homeowner and now we've got to collect from 30 homeowners that are being sampled, that's, you know, physically that doesn't work.

Twenty-nine of them won't pay. So you know, we sort of -- it's difficult and I'm -- you know -- like I said, it's not fair for the one homeowner to get sampled to pay for the other six. Yeah.

MS. MacDONALD: Thank you, George. On the phone I understand Don Charles.
MR. CHARLES: Yeah. I just wanted to address the Rater that spoke before Dave. You know, he talked about the financial piece between him and the contractor being a delicate issue. And totally understand, which is really what comes to the heart of why this is such a conflict of interest.

We are not necessarily saying that by pulling the permit that necessarily means that you're going to wink, wink, nod, nod on the quality of the HERS rating, but we are saying that it represents a direct conflict, in that you are providing an additional service in order to acquire the HERS rating itself.

That is very clear. That's where the delicate -- you're trying to get a market advantage by providing a different level of service. Let's just use another industry here really quickly. Let's just say I own a carwash and I'm competing in the industry and I wash cars.

And my competitor across town decides to go pick up their clients' car and bring it to the carwash, wash it and bring it back, and they're willing to do that for free. Now, the quality of the carwashes might be exactly the same and no difference, and they may both do an outstanding job of washing the car.

But which carwash do you think the client will
choose, the one where they have to drive down there, sit in their car, go through the carwash, take their own time to do it, or the one who's offering, even if for free, to go pick up their car, take it to the carwash, wash it for them, bring it back and they didn't have to do anything to do that.

Clearly, the customer's going to choose the one who offers to pick up the car. Now, that may be fine in the car washing industry, but in the HERS rating industry, it's a conflict of interest because you're using that permitting process directly to acquire the HERS rating.

And I hope that that's a clear explanation, but again, not saying necessarily that the HERS rating itself would be compromised, but to use additional products and/or services for convenience sake, even if being offered for free, to gain the HERS rating is a direct conflict of code.

MS. MacDONALD: So Don, let me ask you, you stated this earlier. So to keep us moving forward in the intent of today that we are looking at new language -- I know we're sitting here and we're debating the status -- what we're -- the current language, but if you could change the language what would you request or want to see in the language, proposed language, specific to
Conflict of Interests and these types of relationships?

MR. CHARLES: Well, it's kind of funny. I mean, we're even going through some of this stuff on a national level with the Supreme Court. And again, I think it gets back down to what the intent is, and I think the intent -- I know the intent of the CEC was that HERS Raters would be independent auditors.

And therefore, I think they should remain independent auditors. It is the contractor's job, responsibility, to pull their own permit. That's part of their job.

MS. MacDONALD: Okay.

MR. CHARLES: That's what they're supposed to be doing in the market. They should not be having anybody else do that except an employee of their own firm. Again, it's their job, their responsibility. So I guess if we have to add that specific language to the code, even though I think the intent is very clear, then I think maybe we should add it.

But to say that the responsibility should change or that it's okay to change the responsible party, I think again plays right into the conflict of interest, and clearly, it's being used as a means to gain the real business for the HERS Rater, which is the HERS rating itself, by providing an additional service.
to make it easier for the contractor to choose them.

MS. MacDONALD: Thank you, Don. Bruce.

MR. EDGAR: Bruce Edgar again, the Energuy.

Again, some people may interpret this as a conflict of interest according to what's written in the codes. It certainly is a way of getting more business, because you know, businesses try to provide services so that they can charge for them. That's what businesses do.

And it would be a shame if the CEC said that, you know, we couldn't make it easier for our clients, we couldn't -- you know -- they have to do things the hard way. The other thing is that, you know, with any other instance of government, every person, every company has the right of agency, has the right to hire somebody to represent them, to deal with especially government, whether it be federal or state or local, municipal.

And so I can hire an attorney. I can hire an import/export contractor to deal with that part of the requirements. I can hire all sorts of people to represent me if I can't do something or if I feel somebody can do something better for me in representation of me in front of the government.

And it seems that any contractor should also have the opportunity to hire some kind of representative so they wouldn't have to deal with these things that are
in many instances becoming harder and harder to deal with.

So again, it may be interpreted as a conflict of interest according to the code by some people, but it is completely -- again, completely pales in comparison to the conflict that exists when we are taking money from the contractor to do their HERS testing.

And as far as sampling is concerned, I don't know why people who get work done on their house couldn't opt or opt out of HERS testing. If they opt out and into a sampling group they could pay a smaller fee. I think that those are details that could be ironed out.

But compared to the huge conflict of interest that that represents, I think that the details could be worked out. So I say, let the market decide what the market wants, and let CalCERTS and the Providers insure that the ratings are done in a quality manner. Thank you.

MR. CHARLES: I have a --

MS. MacDONALD: But I have a question for you. That question is, and as I'm standing up here and I'm asking, we have the existing. I don't know how you interpret the existing, and what, if you were to change it, what might that look like.
MR. EDGAR: Again, I would go right back to the owner. That would be that the Rater must be hired and paid for directly by the owner. I think that one change would wipe out all of this other conflict of interest and I think it would benefit the entire industry.

Yeah, we'd have to market more, but gee, who's better to counsel the homeowner on what they need to do to their house than the HERS Rater?

MS. MacDONALD: Do you think, just as there's a feeling that -- by some -- that if a permit is pulled by a Rater on behalf of the contractor and then they rate that project that there's an interest, do you think on behalf of the contractor -- or that on behalf of the homeowner if a Rater were to pull a permit on behalf of the homeowner and then rate that project, is that any different?

MR. EDGAR: I don't see that the permit makes any difference to me personally whatsoever, whether it's pulled by the homeowner or pulled by the contractor.

MS. MacDONALD: But you're representing the homeowner's interest?

MR. EDGAR: What does make a difference is that we're going to contractors and saying, hey, can you hire me to do this Title 24 job. And then we go do it.
and then we say, you know what, I can't pass this, you have to come back and do this, and then you're going to have to pay me again to come back and revisit and make sure it's right.

And by the way, I see you got another job next week, can you hire me for that one, too. That doesn't make sense. It doesn't make sense and there's where the conflict of interest lies.

MS. MacDONALD: So you'd like to see maybe specific interests that was -- or specific interests, excuse me -- specific language that was directed at the homeowner?

MR. EDGAR: We would love to see that.

MS. MacDONALD: Okay. Thank you. I have Mike Meyers on the phone.

MR. MARK MEYERS: Is Energuy currently -- just a question for you -- are you guys currently in the process of pulling permits for your contractors right now?

MR. EDGAR: Yes, we have permit runners that do that.

MR. MARK MEYERS: Okay. Thank you.

MS. MacDONALD: So I have a question to ask directly, and then that is, if there's any -- I know we've really been talking about Raters pulling permits -
- but the other side of that question, too, has to do with services.

So is there any circumstance where it'd be okay for a Rater to provide -- are there any circumstances where it'd be okay for a Rater to provide a product or a service to a contractor? Would you support eliminating the words, "for the purpose of gaining increased business," in the current definition we have here for independent entity. This is thinking about new language. This is just a general question to the audience. Dave, I see you at the podium. So we'll start with Dave.

MR. HEGARTY: I can answer that. Dave Hegarty, Duct Testers, Incorporated, Ripon. As you quoted the question, you're saying for the purpose of getting business. The Business and Professional Code Section 17,200 through 17,210, prohibit that anyway.

There's --

MS. MacDONALD: Well, who's -- I'm sorry. I'm sitting up here taking notes, too. What was that, what code was that?

MR. HEGARTY: Business and Professional Code, Sections 17,200 through 17,210 specifically prohibit you doing that and for the active purpose of gaining more business, especially discounting those permits which all
five of the agencies who do it, do discount the permits and advertise that they do.

So those are the terms that are in the Business and Professional Code that were adopted by the CEC in the language that you're expressing.

MS. MacDONALD: Thank you. On the phone do we have Mr. Meyers still on the phone? Are they muted?

Okay. Don, do you have any comments, or I have another question and that is, are there other individuals on the phone that provide permit pulling services that would like to comment, whether you're a rater or not?

I know, I understand because I've received contact from an individual that strictly provides permit pulling services. He is not a Rater. So I'd like to reach out to those of you on the WebEx and on the phone. Mark. Okay. We're getting through our technical difficulties. Stand by. Thank you. Go ahead.

MR. MARK MEYERS: Okay. Am I there now?

MS. MacDONALD: Yes, you're here.

MR. MARK MEYERS: Okay. A couple of concerns that had come up through the conversation that I wanted to mention, for agencies that get involved in enforcement requirements, enforcing a permit that has been obtained by a contractor is a much easier task than enforcing a permit that has been obtained by a
homeowner, an agency or third party.

And recently, we've done a lot of work with
the Contractor State License Board, and I want to tell
you, they've been fantastic as far as we're concerned in
pursuing contractors that have had as many as 140 open
permits that they have not resolved.

And we've been able, because we've been able
to produce those records in their name, in their
business process, and been able to pursue them and get
resolution. So for enforcement agencies it's much
better to have the permit in the name of the contractor.

So there are other benefits besides simply
insuring who's doing the work. Also, I believe, once
again, we're talking about easing the process of getting
permits and I believe we're all working on that
diligently, and we can continue to work with the various
enforcement agencies throughout the state to try and
improve that. And believe me, all building officials
are interested in improving that. Thank you.

MS. MacDONALD: Thank you, Mark. Anyone else?
I know CHEERS is in the room. Did any Providers want to
say anything? Thank you.

MR. CHARLES: This is Don Charles again. Are
you --

MS. MacDONALD: Hold on just a sec, Don. Go
MR. DAVID MEYERS: David Meyers, with CHEERS, Stockton, California. I won't belabor the point here, because I think a lot of good comments have been made. So George, I'm not going to take as much time as you.

No.

MS. MacDONALD: Thank you.

(Laughter.)

MR. DAVID MEYERS: I think part of this is -- I think it just comes down to common sense for CHEERS. If you look at the code and you just look at the financial business relationships between the installers and the Raters, this is really -- I'm baffled how we're at the point we're having these conversations, because it's a conflict.

I do agree with Energuy's position that, you know, if you really want to have an independent third party QA system you've got to have a relationship between the homeowner and the Rater. So anything short of that you're QA program is going to be in question, and the integrity of it. So thank you.

MS. MacDONALD: Thank you. Don.

MR. CHARLES: Yeah. I agree a lot with what he said, except for the last part. You know, QA is QA. If we're doing our QA job we're going to be able to
catch failures in the QA process at the Provider level.

So again, it doesn't necessarily mean that there's going
to be a problem with the rating.

But clearly, clearly, clearly, again, there's
a conflict of interest and I would really, seriously
like to see, for not wanting to be overly
confrontational here, but this is such an issue where
the industry I think is divided on probably a 90/10, I
would say that 90 percent of the people in the industry
agree that permit pulling is a conflict.

And again, I think that the CEC needs to issue
an immediate cease and desist until this issue is
fleshed out, because again, you are providing an unfair
market advantage for those -- if this code gets changed
down the road, and if it does we'll enforce it when it
changes, or if it does change, but for in the meantime
you're giving a hand up to those Raters who are taking
advantage of what they feel may be a loophole in the
language, even though I don't feel there is, and they're
going to get a market advantage of several months of
going out to contractors and acquiring their permit
pulling while the other rates and people in the industry
and Providers are simply trying to follow the code as it
is written.

So I would really like to see the CEC take a
much stronger stance on this issue until it's figured out.

MS. MacDONALD: Thank you, Don. Is there anyone else? Oh, I see Charlie. Hold on just a sec on the phone. I'm going to ask, as we look like we're getting ready to close this subject out here shortly, and we'll have a pass at the phone callers one last time here in a moment.

MR. BACHAND: Hello. Charlie Bachand, CalCERTS, Folsom, California. I want to take a quick minute to talk about some more generalities about the conflict of interest rules, besides this discussion that we're having that I think that we need to have to day at the CEC.

I want to point out that the rules regarding conflict of interest are being discussed today about whether or not they're clear or not, but there are no real rules in Title 24 how a Provider is meant to investigate conflict of interest rules and violations, what the possible penalties might be, what powers we have to ask Raters questions, or contractors or homeowners or Building Departments, et cetera, how we should weigh that evidence.

The list goes on and on. I would request in very strong language that we make it very clear in Title
what the conflict of interest rules are, one, but two, how they are supposed to be enforced and investigated, and how those investigations should be reported to the CEC for oversight so that in the future when there are disputes like this it doesn't become a burden on the Providers to figure out not only what is true and what is false, but what they have the power to investigate and how much money they have to spend to do it, to be perfectly frank. So that's my only comment.

MS. MacDONALD: Thank you. On the phone, do we have anyone on the phone that has comments?

MR. VANTAGGIATO: Yeah, Alex with USERA.

MR. MARK MEYERS: Hello.

MS. MacDONALD: Alex, I hear Alex from USERA. Go ahead.

MR. VANTAGGIATO: Yeah, Rachel. I think one of the things that I would like to see in the language of the code coming up is just some clarity about the HERS process regarding entities that incorporate a number of HERS Raters, combine them together in order to form a company.

I mean, we have companies, rating companies that are on different sides of the fence that are certified through USERA. So I guess I'd like to see what the CEC moving forward is going to develop language
about what it means for a HERS rating company to bring together individual certifications, which is what code is.

Code is set for individual Raters who are certified within a Providership, and what it means for a company to bring together certifications of many Raters, bring them together and then offer services as a company.

So I think that there's a lot of language about what a Providership is, a lot of language about what a contractor is, a lot of language about what a HERS Rater is. There needs to be more language about these other types of entities and the processes in which they can and can't do particular things. So I'd just like some clarity in the language moving forward on that issue.

MS. MacDONALD: So Alex, thank you, Alex. Alex, that would be -- are you saying that that would be specific to conflict of interest and that these large HERS rating companies that have multiple facets and branches, that there be more clear language specific to those types of HERS rating companies?

MR. VANTAGGIATO: Well, isn't that part of the crux of the issue, is that an individual Rater, as Mr. Edgar had said, you know, can go out in the field and
he's not -- he's on (indiscernible) about whether a
permit has been pulled for them or not by his company,
and I totally understand that.

So I think what needs to happen is that there
just needs to be some clarity about what that
relationship is when a company brings together a number
of certified Raters then offers other services, because
I think that's where a lot of the frustration lies on
both sides of the fence, you know, is that the one
particular HERS Rater is not out soliciting services,
but their certification is being utilized within the
scope of the company.

So I think moving forward there needs to be
some language that describes whether -- you know -- what
are and what aren't conflict of interest in regard to,
you know, incorporated groups that bring in certified
Raters for the purpose of offering HERS ratings along
with other services.

MS. MacDONALD: Okay. There was someone --
I've got someone walking up to the podium. Sorry.

MR. McKinney: Hi. This is Max McKinney,
Energy Analysis Comfort Solutions. And I really like
what Charlie Bachand just said. The issue isn't so much
what is the conflict of interest until we define
everything.
What the other issue is going to be, even more importantly, is being able to track it. We have currently, I know of several rating companies that are part of a contractor, that they do their own ratings on that contractor, which is a direct conflict of interest, but they have it under different names.

So one of the issues that's going to run up in the permit pulling issue is, okay, I have ABC Rater. I'm going to make XYZ permit service. They're going to be separate under legal terms as far as separate entities, but not necessarily on the conflict of interest.

And that is going to become a huge burden on Providers or the CEC or the state government somewhere to be able to track, this rating company is also affiliated or related to this contractor, or this permitting service is part of a rating company.

So great. Let's define out exactly what the Energy Commission wants as far as, you know, is it legal, is it not, is it a conflict of interest or not. But we also have to have the mechanism and the supporting structure to be able to track it and enforce it with defined penalties.

MS. MacDONALD: Thank you. And on the phone?

MR. DICKERSON: Hello.
MS. MacDONALD: Yes.

MR. DICKERSON: Hello?

MS. MacDONALD: Yes, I can hear you. Go ahead.

MR. DICKERSON: Oh, okay, good. Brett Dickerson. How are you?

MS. MacDONALD: Hi, Brett.

MR. DICKERSON: Hi. I'm Brett Dickerson. I'm in Oakdale, California. I've had a lot of communications with the CEC on this matter. I'm an attorney. I work with Dave Hegarty, not only on this matter, but also on a previous conflict of interest matter that ended up going to a hearing several years ago.

You know, I had a little presentation that I was going to make, but I'm not sure that there's anything I can necessarily add to what has been said. In a nutshell, based upon what we've heard, this is not even a close call.

It's very clear that under the language as it exists today this is a conflict of interest. This is worse than being an employee. You have Raters who, within the context of providing or procuring permits, enter into an agency relationship with it, and thereby, they have fiduciary obligations that they now owe to the
person who ultimately they need to provide an inspection to.

As I said, several years ago we had to go through this. We were successful in showing that there's a conflict of interest. It took an enormous amount of time, an enormous amount of money on behalf of my clients.

This one is, if anything, is worse. It's more egregious. I believe that where the focus needs to be is to, for the CEC at least, is to maintain the integrity of this system and avoid any hint that there's anything going on there that compromises the quality of these inspections that are being done.

Ultimately, the CEC's role in this is to protect the consuming public and insure that what is being conducted out there within the context of these rating inspection is above board, and there's not even a hint that there could possibly be a compromise in the quality of the work that's being done.

We're hearing from, you know, the building inspectors, everyone, and I don't understand. It seems as though the CEC is almost monolithically standing and saying, no, this is not the way we are reading it, when it's really very, very clear.

You simply cannot have Raters, if they are
going to be independent parties and representing the
building officials, be involved in a fiduciary
relationship with that same contractor that you're
providing work for.

Again, it's just facially not a pretty
picture. I agree with Mr. Charles, the position on this
should not be that we're going to allow it to continue, or at least the CEC's position should not be that they're going to allow it to continue until they hear otherwise.

This needs to stop immediately if the integrity and the credibility of the system is going to be maintained. That's all I got.

MS. MacDONALD: Thank you.

MR. MARK MEYERS: Ms. MacDonald, one last comment from Mark Meyers.

MS. MacDONALD: Go ahead, Mr. Meyers.

MR. MARK MEYERS: I guess my final comment would be is, your original question asked for changes in language. I guess the only change in language I would request is a clarification that obtaining permits by anybody other than the contractor or the owner is not acceptable.

MS. MacDONALD: Thank you.

MR. CHARLES: This is Don. Can I ask that
Greg Davis chime in on a particular issue from USERA, both -- just from USERA, but also from a Rater standpoint? Would that be possible? Greg, are you there?

MR. DAVIS: Okay. I've unmuted myself successfully. Rachel?

MS. MacDONALD: Yes, go ahead, Greg.

MR. DAVIS: Thank you very much. My comment may not fall under the Title 20 conflict of interest clause, but clearly, we need to define what an authorized representative is on signing the Certificate of Installation where Raters are currently acting as an authorized representative.

Since that is also a service they're providing, it could fall under the conflict of interest clause and I think we need some more definition of that.

MS. MacDONALD: Thank you.

MR. DAVIS: Or a clearer definition of that.

MS. MacDONALD: Yes.

MR. MARK MEYERS: Recently, Greg, were you not -- the reason I brought it up when Mr. Dickerson referred to an agency agreement, was there not a contractor in your market that recently, possibly contacted you about providing services and said that they had in fact signed such an agreement with another
rate to do those types of services?

MR. DAVIS: Yeah. That's more speaking to the current code than maybe, you know, future code. But for this conversation I was contacted by a contractor, and through my conversation they shared with me that their rating company provided a document for them to sign, authorizing them to sign documents on their behalf.

And in fact, that does create an agency. That does create a fiduciary relationship and that, in my opinion, strikes at the independent entity issue that we're discussing.

MS. MacDONALD: Okay. So I'm going to go ahead and move on from this subject. Do I have any last comments? I'm going to go ahead and mute the lines otherwise. Okay. Going once. Right. Go ahead and muted them all. Thank you.

And again, when I say mute them all, that's for the integrity of the WebEx recording that is occurring right now, as well as for our court reporter. So our next topic is Energy Commission Oversight of Providers.

So at this time we have -- thank you, Gaylen. We have a small enough group in the room, I would invite Providers present, and I have Don, actually, Tav, if you can unmute Don on the phone and Alex and Greg Davis, as
representatives of USERA.

If I can have CHEERS, EACS and CalCERTS come to the table and any other interested participants that would like to, because I'd like to, and I might end up going and sitting down, too, because I'd really like this to be a true discussion and be round table as we go into these issues, which is -- and I think that leading into this, we already have previous direction in that we have stakeholders saying they want better clarification and direction and guidance on behalf of the Energy Commission to Providers. So stand by just a sec.

(Pause.)

MS. MacDONALD: I don't unmute everybody.

Greg Davis and Alex, if you can manage to unmute yourselves at this time, could you do so? Don, are you there? Can you --

MR. CHARLES: Yeah, I'm here.

MS. MacDONALD: Okay. There's Don.

(Technical difficulties.)

MS. MacDONALD: Five Es, these are live.

MR. CHARLES: Everybody alive over there?

MS. MacDONALD: Yes.

MR. CHARLES: Feedback seems to be gone. Is that a phone-in person?

MS. MacDONALD: That's what -- well, yeah.
MR. CHARLES: Or a podium person?

MS. MacDONALD: I think so. It might be a podium. Sometimes, if you have electronics up by the mics it causes strange things.

MR. CHARLES: Okay.

MS. MacDONALD: Oh, okay. We think we might have identified it.

MR. CHARLES: Okay.

MS. MacDONALD: Okay. So going into Energy Commission Oversight of Providers, our existing Regs outline this a little bit. We do have what -- I think what's occurring is we need to, as staff, to understand what are the gaps existing and what processes we might develop going forward, and what that would look like and new regulatory language.

And I think I'm going to come sit down at the table with everybody, because I feel strange standing back here and then looking at you at the table. So hold on just a sec. Okay. So based on comments and staff discussion and just in general interaction with the Providers, and I haven't had a lot of interaction with you, Max.

MR. McKINNEY: We're new.

MS. MacDONALD: So I'm looking forward to that. Charlie and Mike, you've been great. CHEERS,
I've been getting to know and Don Charles, we've recently had quite a bit of back and forth. So in developing this relationship, not only with myself but our staff in general, something that's coming up is overall clarification and the desire for standardized processes across the board between the Energy Commission providing direction, and specific to Oversight to Providers.

So with that in mind, some of the things that are coming up have to do with QA quotas and comments that we received on QA quotas. I put in here, failure to provide data. When I have these statements up here I would like to sit here and clarify.

I'm not saying it's a failure on part of the Providers at this time. It has to do with our internal interactions and requests. I don't know that they're always consistently made, but I would like to say the statement saying "failure," I am not trying to insinuate that as it stands it's a failure of the Provider right now.

I'm just in the future going forward, if we develop steps and processes that we take and it's outlined and it's clear and everybody's on board with it, and then we say, hey, you're not meeting your one percent or whatever that percent might become, then what
happens, what are the steps taken in future interactions.

I would like to have this data on your current Raters failing to meet XYZ measure. Please provide me that data within the next 30 days. I don't get anything, you know; what happens next. And then other issues, like complaint logs or any other issues where there's processes that we need to interact between the Energy Commission and the Provider.

That's what I want to talk about. And so I think we could go there in starting to talk about quotas, specifically. If so, I'm getting a head nodding from Charlie. So let's talk about quotas and I know that will go into our QA conversation, actually.

But the intent of this discussion now is to really look at if these things aren't being met, then what is the process that occurs and then what are actionable steps that the Energy Commission can take. So go ahead, Charlie. You're, yeah, green light.

MR. CHARLIE BACHAND: Charlie Bachand. Yes, you're right on chomping at the bit to talk about QA quotas. And to be honest, I didn't notice anywhere in my review of the slide or in the Agenda any particular point where we would be discussing the QA quota in more detail. So should I postpone my detailed suggestions...
for the afternoon?

MS. MacDONALD: I would, yes. Let's postpone
the -- we're putting that -- I'm looking back at Tav --
we're putting that to our QA Workshop. And yeah, the QA
Workshop later.

MR. CHARLIE BACHAND: Okay. Then in that case
I'll just talk about some generalities real fast. QA
quotas I think still need to be part of this
conversation, because there are issues with the quota
and the way that it affects certain stakeholders.

So for example, and this is data that we
routinely provide to CEC in our yearly report on QA
quotas and complaints, which Title 20 asks for. But at
any rate, there's a certain percentage of Raters out
there that we have been unable to QA in the last year.

And there's a certain percentage of Raters out
there that have completed less than 10 alterations in
our Registry in the last year. So that in and of itself
is problematic because on paper it would like we're
failing to achieve our quota.

And yet, we can show evidence showing that in
every single case we've called every single home and
tried to get QAs scheduled. This is for alterations, of
course, and been unable to do so. So how do we report
that to the CEC?
How do we make it clear to you and to other stakeholders or anyone else that might look at our data, how do we make it clear that we've actually done our job to the very best of our ability, and yet we're still unable to meet that quota.

And previously, people who have Raters, rating firms, contractors, have complained about Providers and the CEC in general, and CalCERTS in particular, saying those guys aren't meeting their quota, and I'm going to talk to the Sacramento Bee about that very fact.

Well, they have ammunition as long as we don't clearly define what happens in those cases where people aren't QA'd or we've been unable to meet the quota of it for in my opinion legitimate reasons. So I want to talk about a clarification to the Quota Rules, talking about what might happen when QA is impossible for one reason or another.

MS. MacDONALD: So that would be like a proposed exception that says, with the exception of, unable to access the house. So more explicit language for exceptions.

MR. CHARLIE BACHAND: Yes. And I hope I'm not jumping the gun here, but I want to address that before we talk about what happens if you fail to comply with the quotas, because that part sounds like it might be
punitive or disciplinary, but I want to make sure that we're being disciplined for the right reasons.

MS. MacDONALD: That's a good point. When I take these pauses please note that I'm writing notes. I'm sitting here with a yellow pad. Dave, I can see you raising your hand. Did you want to come to the table, Dave?

MR. HEGARTY: Comment on Charlie's comments there, because if it's, like for instance, 10, and I clearly understand your issues and I agree with what you're saying on that matter, the -- how many that they do in the one percent or one that you have to do per year is a stringent requirement.

However, we are also required to do 10 percent of the offerings, right. So you would have then at least one of those to see whether they're doing it right on the Registry figures.

MALE SPEAKER: Or we do desktop reviews?

MR. HEGARTY: Yeah, desktop reviews I guess is a better term for it. And then if you cannot get a hold of homeowners or Raters, one of the rules to belong to CalCERTS, which respectfully, I am, we have to make sure the homeowner knows that CalCERTS could come behind us. So if the Rater is not mentioning that, then you pull the service. If he's only doing 10 it's not
going to matter anyway, right, for a year. You just pull it until he agrees to get you somebody to test, right?

And it doesn't have to be random -- I mean, at that point you're not looking at random, but you are certainly looking to QA him. That's just a solution that might be feasible. And I agree with all this stuff.

We have to make this -- a healthy Providership financially is very, very, very important to us as Raters, too. I urge all Raters to stay connected today, too, for this portion of it. But I think it's very, very important to have a healthy Providership.

And you would talk to any of these Providers, would tell you that I don't particularly myself argue over any fees, but I do want to make sure that you have what you need to get it done. And the way the rules are written for QAs today are burdensome.

Then you compound this and the conflict of interest thing, what they have to investigate, complications and stuff, it does become onerous, financially onerous for that stuff. So those things are what we're here to clarify, I think.

MR. MIKE BACHAND: Mike Bachand. I have a comment, too. You know, we've heard from some Raters,
especially Bill Lilly, of California Living and Energy.  
I hope he's on the line. I don't know if he is or not.

But he was concerned about, well, you know, how's he as a rating entity and his Raters are, of course, his livelihood, so on their behalf how's he going to know after 10 ratings have been done am I going to trigger that Rater then, and then after a 12th one is done am I going to trigger him again, because I can get in, so causing a cost to the Provider and -- which has to be passed on to the rating firms.

So maybe in terms of making sure that Providers are doing their quotas, there should be some guidelines as to how that's characterized. For instance, we were told quite some time ago, you know, that we had the ability to show commission on a weekly basis, what the Rater quota is and who's been done and who hasn't been done.

Well, we don't have to do one every week, you know. So I've suggested that that's sort of an improper measuring stick or an improper protocol, because a Rater might -- we might do a Rater twice in one week, or he might do a rating and then it could be two or three months.

Hopefully not, and we don't go that far out, but we can't always insure that we're going to be able
to get into a Rater's customer's homes, and so it might be a month before, you know, he triggers -- the first one he does one every January 1st, every Rater in the whole world is, you know, needs to be done. So January 2nd we're out of compliance.

So I mean, that's a bit extreme, but that's the point, is let's work out a protocol process that's fair to the Raters and informative to the regulators. Thanks.

MS. MacDONALD: Thanks, Mike. So we're going to talk a lot about QA specifically this afternoon, and then future Workshop. But in thinking about the quotas and other issues, going forward if we develop new processes and if there's determined to be a compliance issue with these new processes in place, what might occur.

And so based on comments that were provided, some of the things we were looking at were we might have like a Commission web page that indicated, listed our Providers and indicated that they were in compliance. You know, everybody's in 100 percent compliance.

As I'm saying this it's literally exploratory discussion. So if we had a web page that said everybody's in compliance. Or after certain steps are taken, for example, if we were to request data. And I
sent a data request for some reasons.

The Regs currently allow us to request data, and I said, you know, can you give me all the data you have from, you know, x time to x time, specific to a certain measure and your failure rates. And I send an email over and then I don't hear anything.

So then I send another email over, hey, haven't heard anything, you know, can you please -- you're required by regulation to provide this data, please do so. Still don't hear anything. What steps, then, do I take, just you know, at some point it's not carrot of please, there's some stick.

And I know we're all sitting here and it's kind of an awkward subject, this is the discussion of what is our oversight and the steps and the remedies that we can take. Some of those remedies are, and I've discussed this internally, we can do investigations.

We can do injunctions. We can do like -- I don't want to say it's a shaming, but if we had an actual web page that said, I'm in compliance, I'm in compliance, or failure to comply to provide data as requested within 60 days, or you know, what does that look like? What is the significance?

Does a web page mean anything to anybody? I'm asking you that; that would be public. And then there's
decertification, and that has never been done. It's my understanding that's never been done, but what are the steps that we take to get there.

And here, Charlie, did you want to answer? I know George -- I'm going to flip this over to George in a minute.

MR. CHARLIE BACHAND: I was actually mistaken. I thought that the previous years had been decertified. But as Mike reminded me, they actually uncertified themselves, voluntarily uncertified. So my mistake on that.

I do have some other responses to what you said, but I don't want to dominate the conversation. So if there's other Providers that want to speak.

MALE SPEAKER: I can jump in or George can comment --

MS. MacDONALD: George.

MR. NESBITT: George Nesbitt. Let me jump in. So whatever disciplinary action the Commission takes against a Provider should not be punishment of the HERS Rater. So in August of 2010 CHEERS, the old CHEERS, not the Consol CHEERS, just for clarity sake, was out of compliance with their Registry.

The Commission convinced CHEERS to decertify itself. Well, I came to the Commission in this room. I
threw myself under that bus and the Commission decide
not to decertify CHEERS yet. What happened in November,
I guess, was the Commission shut down the old CHEERS'
Registry.

Of course, a lot of Raters then howled and we were given a little more time to get projects on it. So which allowed us to complete current work. CHEERS was never decertified. It just, all CHEERS Raters were prevented from taking more work.

Now, what this caused was loss of business, loss of time, the expense, hassle of having the challenge test, yeah, it didn't cost that much, the challenge test, money-wise, but you punished every CHEERS Rater for the Provider's failure. And none of the RF funds were given to us to maintain our certifications.

MS. MacDONALD: Now.

MR. NESBITT: You know, you gave money to BPI and Building Performance Contract. But so I just want to say that I think from a Rater standpoint, we need greater flexibility to move between Providers without any barriers.

So if every Provider has been approved by the Commission and their training programs have been approved, and if we have passed approved tests we
shouldn't have to challenge anything.

MS. MacDONALD: George, I like what you said, because you said, whatever action is taken against a Provider it must not punish the Rater, and that's important, because we -- and that's, you know, obviously, as an agency we don't want to see anyone suffer a loss of business.

So what might those, short of a decertification or should decertification occur, like, let's put decertification on the back burner because we want to think about near term oversight and resolution for our communications that we have.

So if we're developing processes, what might that look like? I know current and specific to, you're required to provide data. You're required to have a complaint system, and Charlie, we've talked about this before and I'm just looking at your directly.

So and there may or may not be annual reports that are submitted or that were internally on our side of the house that we're on a regular basis pursuing and asking for. So I'm not sitting here shaking a finger, because this door swings both ways as far as accountability.

So if we have these processes in place or as we develop these steps, what might they look like?
Like, what is acceptable communication when we ask for -
if we outline and identify things that we want going
forward, data, complaints, failure rates, et cetera,
identify other things, that's what the "other" is for,
what are the methods that between us as the Agency and
you as the Provider that we communicate and say, we need
this from you, or how do we interact that -- you know --
are there formal requests that we put in that we file to
you and say, you know, please comply, you have x amount
of time to do so.

MR. CHARLIE BACHAND: This is Charlie from
CalCERTS. Assuming that you didn't have anything --

MR. DAVID MEYERS: I do have something to add.

MR. CHARLIE BACHAND: Oh, go ahead. Please
do.

MR. DAVID MEYERS: David Meyers, with CHEERS,
again. You can put a lot of processes in place and
outline, you know, the communication protocols and,
sorry, how the CEC wants to communicate those requests.
But and that detail can get fleshed out. I
don't necessarily think this is the right forum, but I
think it's important that the CEC remember that
CalCERTS, CHEERS, other Providers are businesses and
some of the requests that you may make are not
necessarily, five minutes, we'll pull the data and give
it to you.

Some of it may require coding, you know, intense coding and things like that. So you know, in this process you've got to take into account that, you know, my solution on some of the requests that we've received is, hand you a data dump and let you guys figure it out.

MS. MacDONALD: Um-hum.

MR. DAVID MEYERS: That's maybe not necessarily the best business relationship approach. But I think we need to have that dialogue where we say, okay, what's reasonable and then what should be potentially be compensated for. Nobody laugh at that. Thanks.

MR. CHARLIE BACHAND: This is Charlie from CalCERTS. Oh, thank you. So I think that one of the ways that we could address this problem without having to deal with very many formal requests is through the Registry programming and the outlines that were provided in Title 20 and in more recently, the Joint Appendices.

I think it's well within CEC's capacity to clarify what kind of access they might want to have to Registries, and to insist on that as part of their oversight. And by doing so, as long as an assuming that they've had a meaningful conversation with Providers
about how that might work, I think that that might
eliminate a lot of the oversight problems.

And so for example, CalCERTS hosts a CEC
search portal that your staff can use to look up an
individual address in the Registry. And we also have a
QA log that your staff can access it. Talks about which
addresses were QA'd, by whom and what the outcome was.

And I think that formalizing that would be a
very straightforward way for CEC to address those
problems of transparency and oversight. I do want to
echo something that David said earlier. Off the cuff
requests can be punitive to registries. So requests
that a staff member might make innocently enough about,
let's say, Santa Cruz 2012, new construction, that might
involve a pull from our database that we actually can't
even run during business hours because it will kill the
Registry.

That's something that we have to schedule for
a weekend or down time. So if CEC is going to make off
the cuff requests like that we would just ask for a
fairly lengthy, like perhaps once a month, type of
request or a two-week, at least, minimum to address the
coding issues and also just the sheer fact that the
websites can't handle your traffic on top of everyone
else's traffic at the same time.
MS. MacDONALD: That's a good point.

MR. MIKE BACHAND: Hi. It's Mike at CalCERTS.

I want to make a short comment about date of request and so forth. We went through a -- I'm going to characterize it as tortuous, but it was worse than that -- process a few years ago establishing that Providers and their data are private property, private entities, let me say it that way, as I recall the exact wording of the decision, which accidentally kicked off this, by the way, process that we're in.

And so I want to make sure that that doesn't become public property in that process. And so I would request, you know, some kind of legal review from your side and maybe from the Provider's side, too, as to how that might characterize that data.

Now, it's asked for in the aggregate, which is probably not a problem, really, since it doesn't really carry a lot of value other than just some generic values. Okay. End of that statement. To talk about question number, what do you do to a Provider who is not complying for whatever reason in whatever category.

MS. MacDONALD: Right.

MR. MIKE BACHAND: Data, quota, these are -- all could be lumped into, we didn't give you what you want. And so you know, I'm going to go ahead and throw
out a suggestion. I'll protect myself from Dave Meyers on this.

    Maybe a financial, you know, a warning and then a financial ramp up, or something that mirrors somewhat what we're going to decide about QA on Raters, the disciplinary process for Raters. It might be quite similar.

    It could be a little different because we are different types of businesses and different types of responsibilities with respect to the last. But I would suggest financial penalties could be part, if not all, of the stuff.

MS. MacDONALD: Yeah. So I'm sitting here with a look on my face and that is --

MR. MIKE BACHAND: Sorry.

MS. MacDONALD: -- I like the idea of the hammer of financial, a fine if you do not comply within x time, you know, for every day thereafter results in a fine. I'm just verbalizing that. We don't have fining authority over Providers, yes.

    So again, hence is the look on my face. Do I -- you know -- so we need to understand other measures that we can take, and we need to determine what the value proposition is for Providers. And so that was kind of where the idea of like a web page of compliance,
you know.

Do we have individuals that are, you know, they're A+ in compliance right now and we identify after so many steps that if there's a change in status, you know, that that goes up on the web page, that as of March you're out of compliance for failure to whatever, but that's a public web page.

Are there other means, again, if we can do investigations. We can; I understand that can lead to injunctions. We can look at decertification. Those are the tools we're dealing with. We don't have fining authority.

MR. DAVID MEYERS: This is David Meyers again. You know, I'm not an advocate of an adversarial relationship with the CEC. I think Charlie makes some very good points about trying to, up front, having the CEC establish the information, the data and things like that, that you need. I think that would go a long way toward, you know, help alleviating some of the one off type requests.

And then if we could get, you know, some guidelines on, okay, if we do give one off type requests, the ability to work with you on those. You know, what you can do on your side, what we can do on ours. You know, I've made the mention of a data dump.
But you know, you can manipulate data a lot of different ways. So I think just working together we can probably get there. So you got anything?

MR. VANTAGGIATO: Yeah. Hi. This is Alex Vantaggiato, with CHEERS. I just want to piggyback real quick off what Charlie and Dave said about registries being private entities, individual businesses and so forth.

So there's logistical issues with that as far as QA identifications and so forth. I just wanted to point out that I feel because we are independent businesses, and operationally we're all different, right.

We have our own policies and procedures and so forth. Whatever it is that's put in writing as far as what the requirements are for notifications and so forth, I feel that the CEC should focus on the what is being reported, but the how should be left on the Providers and their operations, because of the fact, again, that we are completely separate entities. That's all I got.

MS. MacDONALD: Okay. Dave, you were raising your hand over there. And I don't want to forget Don's on the phone, too, so.

MR. HEGARTY: I'm sure Don will have some good
comments. Dave Hegarty, Duct Testers, Ripon, California. I agree with what Mike Bachand just said about mimicking or mirroring some of the stringencies that go along with some type of failures.

And if we're talking one off, like Dave was talking, those are between you and the Provider, you being the CEC. I don't think Raters -- and I'm not speaking for all Raters, but as a Rater I don't think it's our jurisdiction or whatever.

But keep in mind this when we talk about financial penalties, fines, whatever, it filters down to the homeowner, regardless of what happens here. I don't think there's very many Raters, I hope there's not very many Raters out there that would want that big sledgehammer of a financial fine, because it's going to come down to them paying it through the Registry at some point, and it goes to the homeowner and it affects cost effectiveness of your business model.

MS. MacDONALD: Dave, we don't have -- we aren't -- we can't do fines.

MR. DAVE MEYERS: I know that.

MS. MacDONALD: Oh, okay.

MR. DAVE MEYERS: You had brought it up and I'm --

MS. MacDONALD: Oh, okay. That's --
MR. DAVE MEYERS: -- I was concurring that --

MS. MacDONALD: -- it's not on the table.

MR. DAVE MEYERS: I understand it's not on the table. I was trying to get everybody to understand that it's not going to do anybody any good for a financial --

MS. MacDONALD: Right. Oh, okay.

MR. DAVE MEYERS: I don't know of any Providers that are sitting here, and including mister USERA, Don Charles, on the line that would not respond to your comments, right?

MS. MacDONALD: Um-hum.

MR. DAVE MEYERS: In a timely manner.

MS. MacDONALD: Yeah.

MR. DAVE MEYERS: However, should that happen, there are ways to do that, like Mr. Bachand's saying, that progressively get worse and worse on them without hurting, like -- I agree with my good friend, George, says -- not to harm the Rater. You could leave an open Registry.

MS. MacDONALD: Right.

MR. DAVE MEYERS: But like Mr. Bachand I think is speaking to, a more stringent look at that Provider for other things. What we're looking at here and part of what, you say the failure to provide data as requested, as required.
MS. MacDonald: Yeah, it's just an example, yeah.

Mr. Dave Meyers: That information is clearly written in Title 20, what they need to provide, right? And the other stuff is between you and the Provider, CEC and the Providers. And how they get it and what they do is a timely thing and those kinds of issues.

We're talking about the reports that are designated -- or at least I am -- about the reports that are designated in Title 20 and that are required every year or at some key, particular targeted point that would help Raters and Providers understand the business better and bring more to the table for the homeowner.

This is why we're here. We've decided, the CEC has decided in its infinite wisdom, and that is not a joke, that some -- there's a large contingency of air-conditioning contractors or people who are installing energy features that are not getting done what we need to get done, and that's why we have the HERS system.

So having said all of that stuff, bringing it all together to benefit the homeowner is why we're here over the whole issue. Keeping that in mind, the fines and those other things are not in any way helpful at all.

Ms. MacDonald: So like then what would --
does anybody -- I mean, we're trying to identify
processes that we would take so if it escalates, if
there's escalation then I mean, we would -- and if we
had an investigation, let's say, it's indicated that,
you know, as a result of this failure and these steps
taken that we're going to initiate an investigation.

MR. DAVE MEYERS: Clearly -- sorry.

MS. MacDONALD: Then the other thought would
be, and that, you know, that question would -- in my
mind I'm thinking about what George raised, which was,
does that harm the Rater. I don't know.

MR. NESBITT: George Nesbitt. So the day that
CHEERS was in front of the Energy Commission to
decertify itself I was supposed to be sitting in a
classroom that I should have paid for to have been -- to
keep my certification as a HERS Rater.

Yet, before that training would have ended I'd
have been decertified as a Rater. Nobody, not the
Energy Commission, not CHEERS, anywhere in this process
actually communicated anything clear as to what was
going on and could happen.

CHEERS I think sent out some cryptic email
that unless you were me and this room you wouldn't have
understood what was going on.

MS. MacDONALD: Well, yeah, old CHEERS. Old
CHEERS.

MR. NESBITT: So -- yeah, old CHEERS. Yeah, but so in that sense, more transparency. I mean, this is something I've complained about. There's a lot of organizations, the Providers, other organizations that are involved. They don't tell us about meetings and Workshops involving programs and, you know, policy-making that's going on to allow you to get involved.

I think one of the problems is we have multiple Providers and yet everything is a custom job. Every Provider agreement is probably a custom agreement. And so I think, for one thing, the Commission needs to come up with a base Provider agreement that should be uniform among all the Providers, and it should be open to comment from the Providers, Raters, other interested parties.

Obviously, things in an application that may be business confidential, you know, aren't in that. But I think in the base agreement you're not going to necessarily have those kinds of things. And then also, you -- on the issue of data, you've got different Providers with different databases, and if you look at what happened in the CSI program, they started publishing data that they had and the industry benefitted from that data being publicly available.
I think you can almost even get addresses of systems and who the installing contractor is, how much the incentive was. And so you know, there's actually a need for data about the HERS industry verifications, what's going on, where, how many, and that should be public data.

Now, whether this means the Commission does like we're doing on the software and develops the public domain core engine that is a Registry so that it can accept all that data in one place, rather than it being in three places, and that, you know, at least a certain amount of that data is publicly available, that that would be sort of part of my vision.

And I believe RESNET developed a Registry for nationally. So every Provider did not have to -- now, I don't know if they build their own interfaces over it or what they do. I don't know, because I don't work outside of the borders of California.

MR. CHARLIE BACHAND: This is Charlie Bachand from CalCERTS. Bringing the discussion back to Energy Commission Oversight of Providers and Discipline, I do have one or two quick points to make. One of them is, the suggestion about a Provider compliance web page, I think that that's problematic for a couple of reasons.

Historically, previously, the CEC supported a
web page listing Raters that had been subjected to discipline. And I'm not sure exactly what happened at CEC, but eventually, that website stopped being updated and supported, and disciplinary actions that were taken against individual Raters were no longer centrally reported on the CEC website.

And I strongly suspect that that was the result of a number of different HERS Rater complaints about that very process. And I see a very similar issue coming up if we have a Provider compliance web page. The Providers will say -- us included -- well, what's it take to get on there.

What's it take to get us off of there? Have we had due process in getting on that web page? Will other people in the public necessarily connect to that web page or concern themselves with it? Perhaps; perhaps not.

Will CEC be able to consistently and uniformly keep that web page up-to-date going forward until the next revision of Title 20? That, too, may be very problematic. So with all that in mind, I suggest that a web page probably is not the best way to go.

Where that leaves us is to a disciplinary model that probably does have decertification at the very end of the road, but as has already been discussed
a little bit, it needs to be a very, very progressive process with enough lead time that not only the Providers, but also the Energy Commission can know in advance whether or not a Providership is likely to go down the tubes, so to speak, and result in a lot of Raters needing notification.

In other words, you wouldn't want to decertify a Registry without some month or six months' notice.

MS. MacDONALD: Right.

MR. CHARLIE BACHAND: Simply because of all the projects in there. But at the end of the line, decertification does have to be an option for CEC if Providers are bad actors. I just think that it needs to be a very -- as has already been said -- progressive process.

MS. MacDONALD: Clearly defined due process.

MR. CHARLIE BACHAND: Very well defined, yes.

MS. MacDONALD: With off ramps.

MR. HEGARTY: As with Raters.

MR. MIKE BACHAND: This is Mike Bachand. We were collaterally involved with the old CHEERS, decertification or dismemberment from the market or whatever that was called, withdrawal. And I'm not sure of all of the details, but I know that it was a progressive process.
We were brought in early to see if we could help revive the CHEERS database, and it was, as suspected at that time, dead on arrival. It was not an appropriate data structure. So that ramped up to the next operation.

CEC went through a -- I know that the staff, and some of them are here and some of them are not, went through a lot of different iterations of what could be done, and we worked with them. Well, what if the Provider does -- what if CHEERS does withdraw; then would we be ready to do some things and so forth.

So that process was, if you go back and review that and some people are here who went through that process with old CHEERS, there was an opportunity. And George said, well, they cut off the rope at one spot, and then too much complaint by Raters. We didn't have enough time.

So that ramped up, too. So that process happened and there may be some old records that are helpful in that, and that was in October of 2010.

MS. MacDONALD: 2010, yeah.

MR. MIKE BACHAND: 2010, October 15th of 2010, yeah. So in any case, there's -- that's the kind of a process. That might not be the details, but that's the process, but that's the process that I think would be...
MS. MacDONALD: What about like a suspension or locking the Registry?

MR. MIKE BACHAND: That's a difficulty with Raters that we have.

MS. MacDONALD: Yeah. That hurts the Raters.

MR. MIKE BACHAND: As soon as you're suspended, you're done. So now, with more Providers in the market that's not as quite as difficult, because a Rater who was a member of a suspended Registry could go do their jobs elsewhere.

There'd have to be a finishing process, which was allowed during the CHEERS withdrawal time frame. Certain projects were allowed to legacy out until they were done and so forth. So that's on, for me, that's on the table, yeah.

MR. DAVE MEYERS: So Dave Meyers, with new CHEERS.

(Laughter)

MR. DAVE MEYERS: Boy, Charlie and I, we're agreeing a lot today. This is really cool. I think what's important for you to keep in mind is that if you're going -- any kind of process with, you know, taking action against a Provider, disciplining that Provider, you really have to be clear in the process...
that's going to take place, the time line, the opportunity for the Provider to provide feedback and input into that process, same thing we do with Raters, right?

So I think that's critically important. And once you do that you just -- the whole framework is much better, right? So I would just encourage you to do that. The other piece of that is when you have your process in place and whatever you decide, you're going to have, you know, a list of 12 different things, 15 different things, whatever it is, action that you can take. And at the end of that it's going to be potentially decertification as a Provider.

Give yourself the flexibility to not try and put in a framework that says, well, if this happens we have to pick this one, right.

MS. MacDONALD: Right. The offrence [sic].

MR. DAVE MEYERS: You have the flexibility to take one or more of those actions, based upon your discretion, but you have to go through due process to get there.

MS. MacDONALD: Well, let's talk about due process. And so what is, we're going to contact you. We have a question, we have a problem that needs resolving. So step one, we're going to contact you via
MR. DAVE MEYERS: Well, first and foremost in this process, you're going to document.

MS. MacDONALD: Um-hum.

MR. DAVE MEYERS: Right. Nothing's going to be verbal, because we all know where that leads. We all know where that leads. I mean, everybody has experience with that. So you know, step one is we've outlined the issue.

We're going to communicate it in writing and we're going to give you x amount of time to respond, and if you don't, step two is going to -- I mean, I don't want to get into the details. We have a documented process on how we deal with Raters that are failing and things like fraud.

And I think we can leverage a lot of that and add a lot of input. I'm sure CalCERTS and the other Providers can do the same, as well as the Raters, so.

MS. MacDONALD: Is that something all the Providers in the room are willing to (indiscernible) forward staffs that we can look at as we're thinking about these things, your disciplinary process for Raters?

MR. DAVE MEYERS: I can't speak for the other Providers, but I could tell you CHEERS has no problem
sitting down with other Providers, Raters and providing, you know, showing what we do and coming up with some sort of collaborative document.

MS. MacDONALD: Okay.

MR. CHARLES: This is Don from USERA. I agree with that.

MR. HEGARTY: I think there's some CEC concern about that, that it was collaboration that was -- I believe it had some legal issues.

MS. MacDONALD: You mean collaboration like us talking directly with Providers or --

MR. HEGARTY: Oh, no. No, the collaboration of the Providers together in instances, especially, I guess. Would be -- the more inappropriate thing would be pricing, but some kind of -- I just don't know, but maybe Rashad (phonetic) knows whether or not that was a concern in the past, where too much collaboration between the Providers. I'm not saying they shouldn't. I'm just saying, bringing that to the table.

MS. MacDONALD: Well, in the discussion, in the context of propriety that we are having this discussion in a public forum, we could talk about that at the next meeting maybe more. I know we're going to get a little more into disciplinary action for Raters later, but --
MR. HEGARTY: I would think just as long as those meetings --

MS. MacDONALD: Public, I understand.

MR. HEGARTY: -- done public, that there would be no problem.

MS. MacDONALD: I understand.

MR. HEGARTY: I'm just bringing that to the table.

MR. MICHAEL BACHAND: This is Mike --

MR. CHARLES: Yeah, this is Don, from USERA.

I think that we would be happy to participate in a forum with other Providers and the CEC to adopt processes and guidelines for that.

MS. MacDONALD: Okay.

MR. HEGARTY: Great.

MS. MacDONALD: And that could be public, yes.

(Feedback)

MR. HEGARTY: Other Raters chiming in.

SPEAKER: (Off mic, inaudible).

MR. MICHAEL BACHAND: This is Mike Bachand, while we're waiting for Eric. Wanted to say that George made a comment about agreements, three agreements.

(Laughter)

MR. MICHAEL BACHAND: You know, they're required by Title 20 (feedback) today, I'm the luckiest
man -- Lou Gehrig.

(Laughter)

MS. MacDONALD: I know. I know. I actually used to carry that speech around in my wallet. But anyway.

MR. MICHAEL BACHAND: So yeah. So the agreements don't have to be identical at the moment, and I'm not sure that they should. But the Energy Commission does require that the Energy Commission review and approve those agreements and that the Providers have them in place, a subscriber agreement of some time and a Rater agreement. Especially, the Rater agreement is the one that's looked at.

So those things I don't think are -- I don't think there needs to be put in place a list. You know, some of those things in those agreements are germane to regulation and making sure that Raters and Providers are doing the right things, and some of them are business issues.

So I don't think that that should be a uniform process, uniform agreement kind of thing. I think that can be an individual thing. And also, I'm not sure I understood all of Dave Hegarty's comment, but to the point that what we discuss be done in public, you know, that's fine.
But to the extent that we all are complying with regulations doesn't mean we're collaborating. It means we're complying with regulations. So I differentiate compliance from collaboration.

MS. MacDONALD: I think that the comment was specific to having a separate group out of the public process discussing regulatory matters or regulatory development, that we make sure that we're sensitive to the fact that anything that is discussion with any group, Rater specific, Provider specific, any segmenting of stakeholders and then attempting to discuss issues that would result in regulatory development, the concern that that be done in a public, transparent forum, yeah.

So something I have thought about and I'll just -- you know -- we are actually making really good time. I'm kind of excited because I thought this morning was going to run long. Something I was thinking about going forward for just general maintenance and, you know, day-to-day operations was that we have like a Provider based forum and have these discussions and brain storming opportunities, maybe a couple times a year, so that we can maintain consistency.

That's obviously, from the comments, from the interactions, from the past transcripts and my understanding, being new to this group, that there's a
general disconnect between consistency and communications and practices, not only between the Energy Commission and Providers, but Providers and Raters.

And so you know, I was thinking that once we get some Regs developed and we're moving forward a little bit more smooth sailing, hopefully, that we have some ongoing maintenance and communication, open communication with Providers and Raters that we can discuss these issues and resolve them before it gets to being broken.

MR. CHARLES: Rachel, this is Don from USERA. I would very much welcome that for a few reasons. One, I think that communication definitely needs to be improved. But I would also like to -- you know -- while some of the other Providers on the phone might be, you know, my competitors, I also feel that there's value that we bring to each other as probably representing many of the same values and positions together as Providers.

And I would like to be able to work in some regards more cooperatively with my fellow Providers in a constructive form to make the industry overall better. And I think that they would probably feel the same. I don't want to speak for them, but you know, I think
there are many things that we probably agree on and processes that we could adopt that would help us as Providers to do our job better, to make the industry more fair and to just adopt things that are overall good for the industry, and you know, where one Provider may make a decision it won't necessarily hurt them, versus the other Provider or vice versa.

I think it would be a very welcome thing to have us all pull together and where we have those common ground areas be able to address them as an industry and move forward.

MR. CHARLIE BACHAND: This is Charlie Bachand, from CalCERTS. One, yes, we agree that regular meetings with CEC and Providers, bi-annually perhaps, would be a good idea and one that we would be very interested in participating in.

On the topic of discipline and progressive discipline I did want to throw out one suggestion, and it may be not necessarily a very good one, but the one aspect of control that CEC seems to be very strongly able to exercise is in the approval process, in the certification process.

So if you were to try to achieve some sort of progressive discipline that was short of actual decertification, then it seems to me that you could have
sort of a compromise by asking Providers to recertify.

So for example, if you come to us and you ask for a bunch of data on 2014 alterations in San Francisco and we say, we either don't have that data or we don't want to give it to you, then CEC's response would be, in that case you have six months to re-prove to us that you actually have a Registry that functions for alterations, and at the end of that six month time, if you can't meet that requirement again, then we will decertify you.

So that gives the opportunity for you to have a review and oversight of what's going on in the Providership. It also gives the Providership a substantial amount of time to rectify any problems that they have.

And at the beginning of that process, if you announce it, it gives Raters ample time to jump ship if they need to, to a Provider that's not sinking.

MR. HEGARTY: And I know my good friend, Charles, wanted to say that Raters were included in that CEC and the Provider meetings. I know that was right on top of your list.

MR. CHARLIE BACHAND: Absolutely. So much so that it was left unspoken.

(Laughter)

MR. HEGARTY: But I wanted to bring that point
to the table again, too, because in the past we've seen
the Raters are not included, and we want to include
them, whether it's an advisory group, which we've
suggested many, many times, in dealing with these
positions.

Just think about the communication that could
have happened, that we're talking about here today, that
could have avoided this conflict of interest issue if
they, three out of four of the Raters says, we're not
going to do it, you know, that kind of thing.

It may have held sway against something else,
right? So putting that all together, including Raters
is a real key issue and I'm sure the three Raters that
are sitting at this table would agree, and the many
Raters that are out there. We need a Raters Advisory
Board, not only to the Commission, but to the Providers.

MR. NESBITT: George Nesbitt. And in order to
be able to jump ship, there has to be a ship. So if the
Commission wanted to decertify CalCERTS right now,
there's no ship to jump to. The new CHEERS is not
certified under 2013 at all yet.

Yeah, and USERA only has a slice of the
market, a small -- I mean, you know, a slice of the
market. So you can only do change outs and, you know.

So there's no ship to jump to. Luckily, when you were
going to decertify the old CHEERS, at the same time you were certifying CalCERTS under everything.

So we only have one Provider who can provide essentially everything under Title 20. So there's now -- you know -- some people have called it a monopoly. It's not a monopoly. They don't have a hold on the market, but they are the only one fully approved.

MS. MacDONALD: We have EACS a Provider, too.

MR. McKINNEY: Yes, one more.

MS. MacDONALD: One more.

MR. NESBITT: When did that happen?

MR. CHARLES: This is Don from USERA. I would just like to say that, I mean, I don't necessarily think that this is a huge issue. I don't think anybody at this point is questioning whether or not there are substantial (indiscernible) or anything going on amongst Providers.

So again, I understand the need to maybe bring some clarity to this, but I'm not necessarily seeing huge red flags right now that would make this a huge matter. Not saying that we shouldn't address it, but again, I don't think there's a pool of evidence to suggest that we've got a major issue amongst Providers with violations, and we really need to address this.

So I guess I'm not quite sure, except for just
wanting to add clarity before maybe there is such an issue, which is not a bad idea, but I don't think that there's pending issues right now that would speak to any Providers at the moment, that I'm aware of, with huge violations that are current, so.

MS. MacDonald: Yeah. No, I agree. The subject has come up because in the previous scoping efforts of the OII we identified specifically Rater discipline, and so one of the questions that was brought up specific to the refreshing of this effort was what about Providers.

And upon me trying to look at this and identify, you know, what's going on, I didn't see it really being covered. And this goes to -- I'm not saying that there's a burning issue right now or a need, but it's something that's been kind of off the table, and we want to have all of our bases covered for not only Rater disciplinary action, but Providers, as well.

And this really I think on a broader, above disciplinary, as that words goes, is that this is really about Energy Commission oversight and general fairness and communication, and now the word is slipping my brain.

But the fact that we -- consistency -- that we are overall consistent in what we say and what we do and
how we act and interact between the Providers, and that it's transparent. If we say, you now, one thing to, you know, USERA, then we're saying it across the board.

I don't know that we are always doing that, you know. And I want to try to develop better practices, and that's also part of education and outreach, as well. But just --

MR. CHARLES: Well, one thing I'd want to speak to is just as an example of what you just said, I think it's a good example, not to get back into the conflict of interest thing, but recently, where the communication came down from the legal department to a Rater directly that they could participate in the permitting, and that the CEC was okay with that, yet no -- no, this wasn't one of our Raters, but I think it might have been a CalCERTS Rater, but I'm not even sure of that.

It really doesn't matter who it was. And I only say that to say this. I think it's unfair to whoever that Provider was that one of their Raters was given permission by the CEC directly to do something that the Provider may have been training and trying to enforce against.

So I think that the communication when a policy change like that comes down to that, needs to go
directly to the Provider and not to the Rater. And if
it is given, you know, there needs to be some sort of
direction and the rest of the Providers in the industry
should have been given that heads up, as well.

So you know, again, I don't know which
Provider that was, but I think ultimately that when a
communication goes down on an important critical policy
issue like that, I think the Providers ought to be
informed first who are supposed to be the enforcement,
you know, agencies in place to deal with these types of
things and that communication shouldn't be given
directly to individual Raters, making a pretty big
policy sweep and change without the Providers even being
informed of it.

MR. TAYLOR: Rachel, this is Eric, from the
Third Party Quality Control Program. Can you hear me?

MS. MacDONALD: Yes.

MR. TAYLOR: I'd like to just add to the
discussion, if it's okay. On oversight I just have some
ideas, because we have extremely strict oversight when
it comes to our Third Party Quality Control Program,
because we collect a lot of data, as you know, because
we collect it through wireless technologies when the
contractor's out there sealing ducts and doing charge
airflow and we're able to see deficiencies.
And I think that the Commission's basis of disciplinary is wrong, in my opinion. And it's based, at least from an audit or a quality assurance standpoint from the Provider's standpoint, I think it's unfair to them to basically have an audit system that is six months after the fact that a HERS Rater has gone into a home and they're up against a lot of barriers to that idea or strategy to that concept, because after a homeowner or a business owner has had work done in their home or business, they don't want to have anybody else come into their home and business. I mean, what do they care.

And so to audit, what we have done in the Third Party Quality Control Program is we do real time audits. Because it is the responsibility of the Third Party Quality Control Program to properly train the contractors on code and standards, I think there should be a certain percentage of audits on the Raters in real time.

In other words, there's drive along, kind of like, you know, DMV or having your pilot's license, if you break the rules you're not punished through his nebulous, well, you did the job wrong on this home that could or could have not passed the test when you were there, but on your ability of what you're doing.
And because the Raters -- I mean -- the Providers have a responsibility to the Raters to train them properly, there could be triggers and a certain percentage that you do ride alongs randomly through your Rater base, to basically show up at the job in real time.

MS. MacDONALD: Yeah. The --

MR. TAYLOR: (indiscernible) scheduled, then the Rater can go -- I mean -- the Provider can do a ride along to make sure that they're following the proper procedures and --

MS. MacDONALD: So Eric, we're actually keying up this topic later today. Did you have --

MR. TAYLOR: Oh, all right.

MS. MacDONALD: -- specific to this, though?

MR. TAYLOR: After five minutes of conversation.

MS. MacDONALD: No. It's okay. Specific to your thoughts on Commission oversight and interaction with Providers and any disciplinary process, did you have any comments on that?

MR. TAYLOR: Well, from the disciplinary standpoint, I think it's just unfair that you would impose kind of a dysfunctional system on the Providers.

MS. MacDONALD: Well, it's -- yeah.
MR. TAYLOR: They got to do one kind of wanting 500 or a certain percentage, and then they have to go out and do that, and then you discipline them on what, that the tests passed or failed? It doesn't seem fair to me.

MS. MacDONALD: Well, yeah, we're kind of bleeding into QA right now.

MR. TAYLOR: Okay.

MS. MacDONALD: But I do -- Max.

MR. McKINNEY: Yeah, Max McKinney, Energy Analysis Comfort Solutions. One of the issues that we saw through our review process is a lack of real direction, a defined process, step by step. You know, you've got to do this, you've got to do this, you've got to do this, and feedback coming back to us as a Provider.

But the same thing, issue goes the other way looking at, you know, how are you going to oversee the Providers. We need a clear definition of what are your expectations. And then we, all the Providers can get together and say okay, we can meet this, but we need clarity.

We need a really defined, absolutely black and white, no gray, what do we need to do to meet these. And then once we have all the infractions lined out,
then we can talk about, you know, well, what's the
process for getting it put back together.

What does a Rater or Provider have to do to
get back in the good graces of the Energy Commission.
So again, I know our industry is still in an infancy as
far as from the Raters, from the Providers and even from
CEC.

We're all still moving and trying to get more
energy efficient. But as we do this, you know, all the
Providers, and I think we're all in agreement, you know,
we can get together and talk about what are the problems
that we face out there and what are the issues that we
face with the CEC.

And then that communication will help give us
a clear definition of where to go in this process.

MS. MacDonald: And hearing you say that, it's
reminding me of what Charlie said about, we have this
general reg language that says we can ask for data. But
then we contact you and we say, hey, give us everything
you have on change outs for Santa Cruz.

So do you think we should develop specific
language that says, you know, data requests, with the
exception of special requests, or you know, something
that is specific to, like, a special request that's not
the norm?
MR. CHARLIE BACHAND: Yes. This is Charlie.

Yes. My opinion is you should develop that. You will be able to, in advance, think of some of the reports that you will want for people based on a complaint investigation or a QA investigation or investigating a jurisdiction for compliance, all of which are very important.

And I suspect that CalCERTS and the other Providers can even tell you, this is what you should be looking for if you're looking for a jurisdiction that's not in compliance or something to that effect. But all the same, at the end you will find yourself having special requests for us that weren't accounted for in language.

So if you don't have language to account for the special requests, then we're right back where we started.

MR. MIKE BACHAND: This is Mike, also of CalCERTS. Under other issues, we haven't talked anything about the investigations that Providers are required to do, and I always emphasize the fact that QA processing sounds like investigation, because you're going to go out and see, well, did the Rater do the right thing because he's being complained about.

No. Investigations are huge. They're way
different. They have different parameters. They have different reasons for existing. They have different implications in the industry. They have lawyers, representatives of the State Assembly have contacted us about complaints from their constituents.

It's a whole, huge, different category of thing that should be also considered as to what oversight the Commission wants to have on Providers regarding investigations, not just QA. QA is pretty much a mechanical process, essentially.

MS. MacDONALD: But a Provider-Rater oversight investigation, correct?

MR. MIKE BACHAND: Yes. We're required to do investigations and answer, I guess, within 10 days. I can't remember exactly what the Regs say. But if the Commission is going to have full oversight then they need to consider what's the good process for how is a Provider handling his or her investigations. So I just want to throw that into the due process category of things that need to be looked at.

MS. MacDONALD: Would this include, like, people behaving unethically, or what if you have -- and this is -- I don't know of this instance. But let's say you have a Rater who's an existing Rater and then it comes to light that they get a felony for some type of
something bad.

MR. MIKE BACHAND: Right. To speak specifically --

MS. MacDONALD: And then, you know, like what's a process or an investigation that would occur.

MR. MIKE BACHAND: Right. To speak specifically about felony, that's not something that we have discussions about. We don't have a policy about that. So I don't speak to that. But I understand you used that as an example.

A very common example is one Rater is losing business to a different Rater. So that Rater must be cheating, and that's pretty much the extent of things. Well, so I'm not saying, well, what should our investigation policy be.

What I'm saying is, are we investigating correctly. That's what Commission wants to know about Providers. There is an investigation process that Providers have to comply with. Are we meeting that process? Did we answer that person? Did we get enough information? Did we give him due process or whatever?

That's the things I think came out of our original complaint back in 2012, and that's way different thing than just, are you meeting your QA quota. So it's a whole area that Commission should be
looking at in proving the Providers are doing the right thing.

MS. MacDONALD: Um-hum.

MR. MIKE BACHAND: Did you get a complaint?
Yes. Did you handle it correctly? If not, then you're a Provider who's not handling investigations or complaints correctly. Is that semi-clear?

MS. MacDONALD: Yes. You want -- I'm sorry.

Go ahead, Dave.

MR. HEGARTY: And I agree with what Mike is saying, but also, that it has to be open to the Raters to be able to see, you can't have -- just like government. If government is closed to the people it's governing you don't have buy-in.

So this, as well. And not that CalCERTS or anybody's not doing it now. I just want to make it more apparent. After the 2012 what do you want to -- hearings, I think all the Providers became more cognizant of talking to Raters and being less -- more communicative and more teaching.

So to that degree, thank you. But keeping in mind, I keep saying this and sliding this in wherever I can, Raters, Raters, Raters, okay.

MS. MacDONALD: So Dave, so the Regs, specific, let's go there with complaints, then. So
specific to complaints the Regs do indicate that, you
know, you are to have a complaint system. And then
Charlie, you indicated you provide a report.

And my questions is -- and I don't know if we
make those reports public. Should those reports be
public? Is that something we should -- no?

MR. HEGARTY: I believe do.

MR. CHARLIE BACHAND: I disagree,

Unfortunately.

MR. HEGARTY: Oh, gosh.

MR. CHARLIE BACHAND: But the details of
complaints, there are good reasons to keep those details
confidential. If you're complainer about a contractor -

MS. MacDONALD: The aggregated or?

MR. CHARLIE BACHAND: -- or a jurisdiction, an
aggregate.

MS. MacDONALD: Scrubbed?

MR. CHARLIE BACHAND: An aggregate scrubbed
report available to the public of CalCERTS addressed 100
percent of its complaints this year. If there was a
complaint process that was more completely outlined in
Title 20, that should certainly be made clear to Raters,
as well.

MS. MacDONALD: Yes.
MR. CHARLIE BACHAND: But I don't think that even naming the parties involved in the complaints is appropriate information for the public. Simply reporting -- right (indiscernible) has followed the rules.

MS. MacDONALD: Yeah.

MR. CHARLIE BACHAND: CalCERTS has submitted to the CEC. CEC is fully aware. And this is the language that we use with our own complainants. A homeowner or whomever registers a complaint with us. We investigate it and at the end we say, we've come to the results that we've come to.

We may not necessarily tell the homeowner if the Rater is being certified -- decertified, excuse me, or otherwise. But we always say, we are reporting this to the CEC. They have complete oversight of this process.

You should contact them if you have any further questions. So that's the level of information that I think is appropriate, because otherwise, some of the more vindictive complaints that Raters --

MS. MacDONALD: Right.

MR. CHARLIE BACHAND: -- level against each other could be used as ammunition later on.

MS. MacDONALD: Yes.
MR. HEGARTY: But those could be mitigated by a Rater Advisory Board, which could be completely subject to being able to see that, but not subject to telling anybody that's an easy process in an existing government.

MS. MacDONALD: Do you mean a Rater Advisory Board is like a panel, if it was to escalate, if there was wrongdoing?

MR. HEGARTY: Well, not only that. I mean, I'm not sure where you're going with that, but I'm talking about a complaint.

MS. MacDONALD: Uh-huh.

MR. HEGARTY: And a review of those complaint should include a Rater Advisory Board, maybe that swears that they can't say anything outside of that, but that we can see what's going on, not just for Providers, but we see what CEC's doing, too, right?

MS. MacDONALD: Right.

MR. HEGARTY: That's the -- and how we handle these complaints. Many complaints go in that are legitimate complaints and we don't see the end result and we don't get to know what it is, and that's not right, either. So we don't even know whether it's being handled or it's been investigated.

MALE SPEAKER: We should always have that
MR. MIKE BACHAND: I might have kicked a ball down the hill, and it's snowballing.

MS. MacDONALD: That's what this is for.

We're here to -- it's for information gathering, so.

MR. MIKE BACHAND: My comment was that you should have oversight about the complaint process, as well as the quota process that is the Provider adhering. Not what is a complaint, not what is a QA. We're talking today about other issues that Providers should be oversighted [sic] on -- if that's a verb -- then that's it. Did we follow our own complaint process?

MS. MacDONALD: Right.

MR. MIKE BACHAND: That's all. It's not the question is, what did we do on each complaint. It's did we do what we're supposed to do with the complaint. So that was the intent of my followup.

MR. HEGARTY: And I think that's what we're answering -- what's your name again?

MR. MIKE BACHAND: Mike.

(Laughter.)

MS. MacDONALD: Okay. So --

MR. HEGARTY: I think that's what we're saying, Mike.

MR. MIKE BACHAND: Thanks, Bill.
MR. HEGARTY: May I?

MS. MacDONALD: No. Go ahead.

MR. HEGARTY: That's what we're saying here is that you have to have larger oversight to those complaint problems with a Rater panel, as well, because it affects all Raters. Given the things that have happened in the past, I think a Rater panel would have been able to give more insight into what's going on so that we can go down the wrong path, right?

You know, it's just a comment, again, including Raters. I find myself continually supporting, we need a Rater Advisory. Again, we keep missing that point. So I mean, at least as I see it.

MS. MacDONALD: Okay. Now, I've got more questions in my brain. But we're making really good time. I want to ask at this time to have -- is there any questions on the phone line? Do you want to open the phone lines real quick and I'll see if there's any questions, or unmute?

We'll see what happens. Cover your ears. That's weird. I don't know what that is. Okay. So we're going to go into QA next, and at this time if there's not anymore comments I would just move that we take lunch now and reconvene. Let's plan on this.

Let's plan on being back at 12:50 because it's 10 till,
12:50.

So we'll be back here at 12:50 and I've got a look on my face because I've still -- you know -- it'll probably go a couple minutes over that before we're actually sitting down and digging in. But we'll queue up QA after lunch and that'll be a lengthy conversation. Thank you.

(Recess at 11:50 p.m., until 1:01 p.m.)

MS. MacDONALD: I don't have the little bell to walk around and ding like in between shows for Music Circus. Anyway, we're going to go ahead and reconvene. If everybody could be seated. If anybody -- okay. My name is Rachel MacDonald. I'm, again, with the California Energy Commission, the Standards Implementation Office.

And this afternoon we're going to discuss Provider Quality Assurance, QA, and leading that discussion will be my co-worker, Tav Commins, and I will pass it over to you, Tav.

MR. COMMINS: So just as a reminder, we are recording this. So just wanted to let everybody know that is occurring. So as Rachel had mentioned this morning, most of the comments that we have received has been in the area of QA.

And QA in general bleeds into a lot of
different, you know, areas. You've got QA over the
Rater, and the QA by the Provider and QA over, you know,
should there be any different for QA for the rating
firms.

And we've just got a lot of requests from
organizations and individuals, Raters, to clarify the QA
process. I wanted to mention that, so as we're going
through, as I'm going through the presentation, these
are just ideas that people have commented to us that
they would like to see, changes made, ideas that, you
know, being in HERS for I think it's since 2008 was when
the first Duct Testing HERS came out, you know, that I
thought about all the different possibilities of
updating QA.

And so we are going to be having a second
Workshop and that's going to be in June or July. We've
put these topics here to discuss this afternoon because
we thought that these were topics that didn't need a lot
of discussion, possibly, that we could get some
information from and that we wouldn't have to really dig
down deep into a lot of different requirements or
language.

And so that's kind of how we decided to go
break up all of the many different QA topics. So we
will be coming up with an Agenda for the next Workshop.
We hope to put that out soon so that you can see kind of
the other topics that we're thinking about.

Some -- but I just wanted to mention some of
those topics are -- probably one of the biggest one is
how can -- we understand that QA is very costly for the
Providers, but also it's very important that QA be
completed on Raters so that we know how well Raters are
doing out in the field.

So we're going to try to come up with a lot of
new innovative procedures. Possibly, one of the things
that I've been throwing around, and again, we'll be
talking about this a little bit more, you know, at the
next Workshop, but just to let you know, for the CRE
(phonetic) verification.

What we only had -- what if they uploaded
pictures on every job or the HERS Rater uploaded
pictures that were GPS encoded, and so you only have
form of use. One of the other big changes is going to
be, we're going to have to put together -- and pretty
much every person that commented, there needed to be
standardization on the QA process.

So what is a failure and then we're coming up
with a different word for, so when you go out and you do
a QA there's going to be failure and discrepancies. So
a failure is, you know, that they weren't allowed to
leak more than 150 CFM and they're leading 200 CFM.

That's a failure, well, unless someone got in their -- you know -- depending on your investigation. But you know, that's going to be a failure. You know, so let's say they're -- or what if they leaked the 150 CFM and but they didn't tape all the registers, the boots, all the way? Is that a failure? No, that's not a failure.

That's something that going forward that the QA people are going to start looking for. So we need to come up with some -- so we want to include some specific requirements on checklists for when they go out into the job site, QA person, that they have a checklist on exactly what they look for, for each measure.

But we also want to do the same thing. We want to include form of use for every type of measure. So you know, we're going to be reducing QA in general, but we're going to be requiring -- the thoughts now are to be requiring a form review.

But these are just things that I wanted to throw out there because they do kind of tie into some of the things that we're going to be discussing today, and I will be talking about those a little bit. So I hope that I'm not too confusing when I talk about the different things that are going to be going on.
So why don't we get going and talk about QA time frame. So there was a lot of discussion about when a Provider does a QA, should there be a specific time frame, that when a Commission can go out. Should they be able to go out, you know, up to a year?

And it's fallen on both sides. And so we just wanted to get feedback from the group, I think really specific examples, if possible, on why QA only going out not past 60 days would be a good thing or it would be a bad thing.

So you know, so that was my first question and I would like the audience to give me your recommendation on the amount of time that you think that a QA should be occurring or should not be occurring past, or if there should not be any time whatsoever.

MR. CHARLIE BACHAND: This is Charlie Bachand from CalCERTS. I'll speak first, I suppose. Sixty days does sound like a reasonable number on the face of it, but I do want to talk about the difference between, say, QA and investigations.

Or if you're doing QA on a Rater with fairly low volume, let's say a Rater that only does one or two a month, it's very possible that even two months after the fact we're faced with the challenge of trying to figure out what exactly happened in that home.
Of course, we need to do a QA review to actually see what's physically in that home. The flip side of that argument, of course, is if we find that the ducts leak, even let's say the target was 15 percent and now they leak 50 percent and there's a duct that's been disconnected in the attic, it's been two months.

And who knows how many different people have been up in that attic and have kicked or sat or otherwise destroyed that duct? In other words, after -- 60 days is just a number, but after a certain period of time you get to the point where your QA results are very easily disputed by Raters who certainly have -- it's reasonable for them to say, it wasn't like that when I was there and I don't know what happened since, but I don't want to be punished for it.

So in that sense I think that if there are careful definitions of the exceptions that need to take place, I think that 60 days would be not unreasonable. But I would still urge you to at least consider not putting that limit there at all, or otherwise, having the exceptions very, very broadly delineated.

I don't think any of the Provider are interested in disciplining their Raters on a QA failure that's more than two or three months old because of that time lapse, because they may have already learned of
their mistake through other QA.

So they may have already corrected it going forward and it's not fair to hold them accountable for something that they did in the past before they were properly educated. So those are all valid concerns. So I've landed somewhere in the middle.

But I think 60 days would be a minimum, if you were to set that time frame; no less than 60 days should be allowed, and I guess I've said the rest of it.

Here's Mike.

MR. MIKE BACHAND: Yeah. One thing about your slide up there, it says, "Within blank days or the project is exempt from QA," that does -- no one of us Provider who are completely, highly ethical, integrity people would do this, but somebody could game that system.

So just because you can't get it in within the time frame shouldn't exempt the project, but it needs to be counted and accounted for. So an exception to that rule, I don't know that there are exceptions, but one of the things that affects the time frame that you can get in is to how many you have to do and the bandwidth of QA Raters that you have.

Right now, QA Raters are, I believe by expression in language from the Commission, intended to
be very -- you know -- higher knowledgeable than a 
normal Rater. It makes sense even if language doesn't 
say that, but I think there is some small language in 
the Regs that talks about that.

MR. COMMINS: Yeah, there is.

MR. MIKE BACHAND: Yeah. So that's another.

You know, that bandwidth, it's difficult. You'd think 
it would be easy. There's 30 million people in 
California. Some of them must be qualified, and they 
are, but it's just not that easy to find one that's in 
the area and that wants to do what you want them to do.

So you know, it's a difficult process to some 
degree to get quality QA, quality, Quality Assurance 
person. So I would strike "exempt" if that's suggested 
language. I agree on the days. It's not -- you know -- 
there's some time frame that it doesn't make sense at 
all and there's some time frame that is -- you know -- 
you can't -- if it's always within 30 days, that's not 
always possible either, but something that's reasonable.

MR. CHARLIE BACHAND: I have one followup 
point to make. Not all Rater firms do this, but I 
believe that some of them do. They will sit on their 
test results for their 3Rs until they've finished every 
single test in the Registry and want to wrap up the 
project all at once.
Because of this and new construction there might already be a two-week -- excuse me -- a two-month time window in between when they've done one of their tests and when they've done another one of their tests. So because Raters sit on their 3Rs for so long, making the time frame any shorter than 60 days is problematic for that reason, as well.

MS. MacDONALD: That's consistent with the question on the phone about the benefit to differentiating between new construction and resalterations for that time line.

MR. COMMINS: Dave.

MR. HEGARTY: And the fact that you have a sampling in there. If you have an open group for six months you're eliminating all five up until the last CF3R, and so you're not really getting any true examination of what's going on there.

So you have to think about that, the six months, plus the 60 days, what is it, you know? I mean, there's some complication there. I agree with Mike on the exempt, the exempting a project from any QA is wrong in my mind.

MR. COMMINS: Okay.

MR. HEGARTY: If a Rater is in -- if they find that there's more need for investigation or something
like that, all his work is open to criticism, right? I mean, it's what have you done in the past.

MR. COMMIN: So again, this is -- you know -- we just put this up there to get discussions. So we appreciate that. Alex.

MR. VANTAGGIATO: Yeah. This is Alex from CHEERS. One thing that I wanted to point out was also the fact, even a Provider that has the best intention and is doing everything they're supposed to do, there were still logistics completely outside of their control, such as unresponsive homeowners, unresponsive superintendents, people not wanting them on their job site. And creating a short time line would just make an additional hurdle for Provider to go over.

I think that naturally all Provider try to do QA as fast as possible, because the reality is the fact that homes are not sitting on the market for months on end for somebody to go in. So homes are being sold, built and turned over sometimes within days, if not the same day, that the final inspection had been completed.

And because of that a short QA time frame would create I think more problems than it would solve.

MR. CHARLES: This is Don from USERA. I agree with what most everybody's saying. I think the only caveat I would add to that is just because it may be
longer, I think a shorter time frame is good. I think that's definitely something we should consider.

However, if a QA is done past 60 days and it passes, it's not a problem. It only becomes really an issue if there's a failure, and therefore, it may require QA to be continued on that Rater on jobs that didn't go to that time frame to see if there really is a problem or if it may have been some other, you know, mitigating circumstance that created the failure. But if it passes, it's not an issue.

MR. COMMINS: Anymore comments?

MR. VANTAGGIATO: Yeah. This is Alex from CHEERS again. One idea or one thought is maybe create definitions of time frames for different type. So there's certain tests like blower or duct blast, we can replicate the test.

Doesn't mean we're going to replicate the result. But there are certain tests that are going to be the same all the way around. EER, that's not going to change six months down the line, right. It is what it is.

MR. COMMINS: Right.

MR. VANTAGGIATO: Any kind of water heating type test. So data that is empirical in nature and it is the way it's going to stay, that maybe those could be
handled a different way, QII maybe. It's either pass or it fails, right.

You're not going to -- I mean, certain things might change. Maybe that's something to look at. That's all I'm saying.

MR. COMMINS: Okay. Anybody else? Do we have anybody on the phones that would like to comment? Okay. So why don't we move onto the next item. So one area that we also received a lot of comments on was Education and Training of Raters.

And so one of the areas that we started talking about and that was brought up is the possibility of doing kind of -- so for new Raters who, because there's so much to learn in the HERS Regs, there's so many specific things that need to be done, it's just a lot to learn by a new Rater, you know, to go to one week of training.

And so one thing that we wanted to throw out there and get comments from the group is to do Rater ride alongs, you know, or apprenticeship type programs where after they've gone through new Rater training, they would be required to go along with some Raters, or a Rater or multiple Raters and just spend some time with them, Raters that have, you know, passed the QA process and who have been doing this for a long time and who are
known to do a good job.

And so we just wanted to get the group's thoughts on having some type of a Rater ride along. And then, you know, for new Raters where that didn't occur, possibly require additional QA for the first, you know, 100 percent QA maybe for the first five jobs or something. But you know, that's just an example.

So if I could get -- I think Alex wanted to comment on that.

MR. VANTAGGIATO: Yeah, I'll just go first.

Alex, from CHEERS. As the short answer, CHEERS supports the Rater ride along as part of the training, in addition to everything else that's already required.

I don't think they should have the option to turn it down. As a matter of fact, I think that it should be required before taking the actual field and written test. And I think it would do nothing but improve the quality of the HERS Raters that are coming out of the Training Program.

Now, with that said, there's going to -- obviously, there has to be a different approach between somebody who's hired by a HERS rating company ahead of time and they're put onto the training by them, versus somebody who's independent and wanted to become a HERS Rater on their own.
So basically, they're not actually hired by anybody, so how are they going to ride along with somebody. We have discussed internally ways to handle that and we think there is a way, but long story short, we, CHEERS, supports this idea.

MR. CHARLIE BACHAND: This is Charlie --

MR. CHARLES: This is Don with USERA. I'd like to see the ride along process actually be merged with QA. I'd like to see us -- I mean, you know, you get a tax audit, you get any other type of business audit and that's usually done where an auditor shows up at your place of business and goes over your stuff.

I think it would be outstanding and it would also be a huge time factor and savings where if we could schedule our auditors to go on ride alongs for purpose of QA when they're doing an active job, and maybe that wouldn't negate the need for doing other QA where they don't necessarily know, but maybe it could limit that from the one percent requirement now to maybe one in every 200 jobs gets a, you know, behind the scenes QA.

But as just a regular course of practice I think it would be a lot easier to find compliance, find issues and training, get the QA done because the Raters are already scheduling those appointments. It would eliminate a lot of factors for us having to go out and
perform QA and get customer opt-in to allow us to come back in the home. Now a third person coming back.

I think it would really speed up the process and would also serve as a great training tool and help identify issues right away on what Raters are doing procedurally, and again, just to make the current QA requirements a little bit more spread out so we could merge that with ride along and doing a behind the scenes QA, or they don't know about, but I think it would help facilitate the QA and the training simultaneously.

MR. COMMINS: So actually, our next slide is specifically on having Raters attend QA. So I just wanted to throw that out there. So right now, it's really --

MR. CHARLES: Sorry to get ahead of you.

MR. COMMINS: Okay.

MR. CHARLIE BACHAND: This is Charlie Bachand from CalCERTS. I think that with that distinction made that this is not talking about a QA ride along. This is a separate ride along. I would argue against this step for a number of reasons.

I'm not sure exactly how the Providers would or should be held responsible for a new Rater getting trained by some other Rater. Providers don't hire Raters. Rating firms hire Raters. Contractors hire
Raters.

How would we be involved in that process? How would we select the Rater to go along with? Would that be detrimental to one firm? We have Duct Testers and Energuy represented here. So I'll choose them.

If we select a Duct Testers Rater to be the person that everyone rides along with, does Energuy feel that they're being slighted or in some way that their new people are being manipulated to prefer Duct Testers? Or completely vice versa, of course.

I'm not pointing any fingers at anyone, but I don't see how that would work in practice. I don't see how CalCERTS could oversee that process. I don't see how we could identify the Raters for that process.

I don't see how the notification -- would we just take a written letter from Energuy saying, well, we trained this guy this week and it was great.

MR. COMMINS: I'll sign --

(Laughter.)

MR. CHARLIE BACHAND: Creating all of that process is a tremendous hurdle, I think, and I think that we have much better ways of attacking the education problem with the field houses that are already required, and we're going to have a lengthy conversation I'm sure about QA being used as an educational tool.
So with all those things in mind, CalCERTS does not think that this is the most practical way to achieve better Rater education.

MR. HEGARTY: I think they all ought to go with George.

MR. COMMINS: Oh, go do ride alongs with George.

MR. DAVE MEYERS: Yeah. Everybody should ride along with George.

MR. COMMINS: So my thoughts were that it would be Raters or rating firms that would voluntarily say, I'm willing to have this guy come along with me, and whether he is part of my -- and actually, kind of that's where I wanted to get outside input from, is specifically Raters and rating firms, is do you think these organizations would be interested in having Raters ride along with them and see what's going on out there?

MR. HEGARTY: I hear what you're saying, Charles, and I know that that's very important stuff. This is Dave Hegarty with Duct Testers. We do it now. We actually make them go out. We hire them as assistants and they go out for a month before we even send them to your class, or whichever -- two weeks or depends on when your classes are.

I think you guys already know that. But if
it's in a Rater community or organization, agency that
has riderships, there's much more accountability that
way, of course. But I don't think, you know, you sign a
piece of paper that says you did do that, and the guy
who you went out with signed a piece of paper.

It's documentation. I don't think it's a hard
thing to overcome, but I do hear what you're saying.
And would you be responsible to do that or does that go
to, in the record, that all you have to do is keep as a
record? I'm really interested in making sure you guys
don't have a lot of paperwork either, right?

So that's -- and we'll get to that part when
we talk about that. But I think we do it now, most of
it, and I think Energuy does it a little bit, too, if
not all more than I do. But most of the -- I know John
Flores' guys do it. I know that some of the others who
we work with have a ridership situation before they even
go to the classes.

MR. COMMINS: So what about Raters that are
just individual Raters that want to do ride alongs?

Would you open --

MR. HEGARTY: Well, again, that's just --
yeah. We have no problem with that. We're getting free
labor, right? I mean, in the sense --

MR. COMMINS: Exactly.
MR. HEGARTY: In a sense, you have to employ them to get out there, right? So when they come you have to pay them so they're covered under your -- that's was a smart remark that I didn't need to do. But the --

(Laughter.)

MR. HEGARTY: Thank you. The essence there is that we get voluntarism, like you're saying, to get that.

MR. COMMINS: Right.

MR. HEGARTY: Because they don't know if they're going to like it. You know, we spend five, $6,000 just to train them complete, something like that, not including wages and transportation and staying at the beautiful hotel in downtown Folsom. So that's a lot of money.

We want to know a guy is capable and knows that he likes this before he does it, and we do that, and I'm sure most of the big Raters do.

MR. MIKE BACHAND: This is Mike at CalCERTS. I tried that process several years ago. Max might remember this. We had talks about it and could people go along. You know, there's a lot of issues with that, philosophical.

One guy's exposing his business and his customers to another person who, by definition, is not
going to be one that he hires because that would, you
know, conflict the process. So that's one of them.
Tracking that, all the logistics that Charlie mentioned,
are another whole set of problems that goes along with
this.

It didn't get good reception in the
marketplace when I -- and I didn't have the wherewithal
to address the whole marketplace in those days, but it
was not well received. I think there are better methods
out there to do this kind of extra hands on stuff, but
there's more.

There are a lot of people that are coming out
of college, community college programs and other
training programs that training students. And then they
want to take training house and get certified, but they
may not be going to work.

They may still be in community college and
this is just one of the things they're doing. So
they're not even actually entering the marketplace,
necessarily. That's not the majority of trainings out
there, but there's a substantial amount of that going
on.

And so this thing is not applicable to the
entire process. It could be maybe part of a thing, like
the guys that do with Dave and Energuy and others. Bill
Lilly does this, too. Most of the major firms run people through their organization first before they spend the money on training. It's an economic issue to them.

Plus, they want to see if the person is applicable. Are you a knob tweaker or do you get it, you know, or do you show up to work on time? All those things are other things that are being vetted before they even come through training, which is expensive.

Ride along days, you know, somebody's got to pay somebody for something somewhere along the line. It's not free to do that. So those are some of the difficulties, and that it's a great idea with probably very difficult implementation.

MR. CHARLES: This is Don from USERA. I agree with what my associates are saying, and again, I'll just default to the next slide. I think there's an opportunity for such a thing in the next slide topic, to combine the processes.

MS. MacDONALD: So this is -- am I on? Ah, yeah. Okay. This is Rachel MacDonald, and Tav, I'm not trying to bogart your discussion.

MR. COMMINS: Right.

MS. MacDONALD: But listening to all of the comments then makes me think new things. So if we have

CALIFORNIA REPORTING, LLC
52 Longwood Drive, San Rafael, California 94901 (415) 457-4417
a class or this group of individuals coming through the community college, you know, they're getting the training. They haven't pre been out in the field exposed, because I recall that from training.

I remember that was a couple guys there that were already familiar with the equipment because they were already working on it with -- under the wing of another guy, and then now they were getting certified.

So if we have this group of individuals that are not going to apply their training right away, then might we subject -- not subject them -- but might they be subject to maybe x amount of hours of working with a qualified rater when they're ready to go in the field and start being hands on as part of their certification, or they're subject to more QA?

MR. MIKE BACHAND: No, that's a good question. And we find that the farther it is from your training to your first QA, probably the greater the deficiencies are. Or more likely, we get a phone call from you saying, geez, red hose, green hose, I forgot, you know.

And so we do a lot of field support on that and I know the other guys do, too. So that's something that's possible. Again, it's an additional cost to the Provider and to the trainee or to the initial certificate person.
Finding that and tracking that is really probably the biggest issue. You know, we could have our Registry flag us, hey, this guy was trained six months ago and we've never heard from him again. Well, maybe he's done 300 over at CHEERS.

I don't know. So that's -- I don't want to be the guy who said this, but that still is my same thought. It's a great idea that's going to be very difficult to really do.

MS. MacDONALD: Because we're really looking at it as this, like an apprenticeship program, like that these individuals are out there getting hours, x amount of hours hands on in the field, and then whether they continue to work for a rating firm or they are independent, that they have this hands on time that would hopefully result in more consistent QA.

MR. MIKE BACHAND: That might work for the larger firms especially well, because they're the ones that have the ability to do that. And so it might affect their QA quota or the Rater's QA quota, which is next slide and so forth.

Or we haven't really talked about quotas yet. We got a lot of talking to do about that. So maybe for larger firm maybe there's some delineation. But you know, what's a larger firm? Is it three Raters? Is it...
12 Raters?

MS. MacDONALD: Or a Rater in good standing, so.

MR. MIKE BACHAND: Yeah. How about --

MR. CHARLES: This is Don from USERA. I just had a question. Again, I like to get really practical on some of this stuff and just say, is there a business reason or what's ultimately driving this particular topic?

Usually, when you're trying to fix something you're implying that it might be broken. Is there an issue out there that it's viewed right now that something is broken?

MR. COMMINS: So I think from what I've been hearing is that often when a QA is done, especially on new Raters, that because there was just so much to learn in the classroom that there are things that they missed. And so that's why, yeah, we thought that if they were better prepared, would have a lot better -- some background or more experience with doing the tests that, again, from talking to the Providers the problem is often that they feel when they go out there, when they found problems it wasn't because they did it on purpose, it was because they just didn't understand or didn't know what was required. That's what I'm hearing
from the Providers.

MR. CHARLES: Perhaps maybe there's an opportunity to just have a heightened QA requirement for a new Rater.

MR. COMMINS: Right. And --

MR. CHARLES: You know. Go ahead.

MR. HEGARTY: Don, stop.

(Laughter)

MR. HEGARTY: Don, don't go there.

MR. CHARLES: Sorry.

MR. HEGARTY: No. No. No. I'm just kidding you, trying to keep it light. The thing I'd like to focus on is that I think to have the same voluntary, and I don't know that that's possible, to put voluntary stuff in some subject or something like prescriptive and performance stuff.

But the Providers who choose to, could have a pathway to if you do that you get some extra that-a-boys on the back, and you know, we have this ability to challenge test. And if we produce that kind of background where we have x number of tests that we've gone with another Rater or something like that, maybe that allows you to take a challenge test or something.

And we do that all the time with -- and Charlie knows this -- when we have a Rater that doesn't
pass a test we send him out again and again and again
with somebody until he can understand what he's doing
and then, you know, keep that experience going so when
he rolls into the test he understands what he's taking.
I don't know if that makes sense, but given
that we have the ability to take a challenge test I
think there's ways to put that together with voluntary
association with a good Rater that you can do. You can
have -- I think doesn't it have those kinds of things?
I thought there is some mentoring in.

MR. BADEN: Yes. We actually have a tablet-
based intern program that not only follows the Rater,
but you can actually talk to him (inaudible) test.

MR. HEGARTY: That was the esteemed Steve
Baden from RESNET.

MR. COMMINS: And actually, so the people
online couldn't hear what he said. So you want to
repeat that?

MR. HEGARTY: They have a tablet-based -- what
do you want to call it -- training system where you can
--

MR. BADEN: Mentoring.

MR. HEGARTY: Mentoring, and they can QA from
there.

MR. MIKE BACHAND: Sorry, Tav. This is Mike
at CalCERTS. There's another issue with ride alongs and things. So we have, because of the cost of training, even though -- even with online and other, you know, technological enhancements, training's not cheap and it's time consuming.

So one of the problems is that in order to maximize the training and minimize the cost to each student we try to do it in volume. So we take, you know, 10 to 20 people in a classroom at a time. There's variations.

There's all kinds of different logistics that different Providers have, how they do it. But the bottom line is, you know, 10 or more people may come out of training on Thursday the 20th of May and want to do their first rating on Friday the 21st of May, and there's not enough people from the Provider to go out and be right on each guy as a first time QA or the first house that you do.

That's a logistical nightmare because the first house you do might be in Eureka and the training, you know, we're in Folsom and they're even farther south. And it -- Max is in Orangevale. So that can be a real issue for a statewide process where you try to get to the first house that a guy does or a girl or woman does. That's --
MR. HEGARTY: Aren't we talking about a ride along that happens before you get certified or?

MR. MIKE BACHAND: No. There was a suggestion that maybe we QA the first house or be along with the Rater on the first house.

MR. COMMINS: Right.

MR. MIKE BACHAND: The training facility. So it's --

MR. HEGARTY: Still have to review that anyway, right, the first ones?

MR. MIKE BACHAND: Yes.

MR. HEGARTY: Sorry.

MR. CHARLIE BACHAND: Speaking of Eureka, just as a good example, let's imagine that any small city where we don't have enough Rater penetration right now and we would very much like it if the jurisdictions were enforcing and there was a Rater there to help them enforce, Eureka, Humboldt, Weed, a number of cities right along the border of California, I think that making a mandatory ride along requirement for Raters in that area is going to introduce yet another hurdle for them, because they may not have any other riders -- Raters, excuse me, in their community except for their competition.

So I think that because there are mandatory

CALIFORNIA REPORTING, LLC
52 Longwood Drive, San Rafael, California 94901 (415) 457-4417
CEC overseeing ways of doing this education, I think that this is best left to the marketplace to decide. Larger rating firms are already doing this. Smaller rating firms perhaps can't afford it and can't afford the time, and furthermore, may not want to wait an extra week, as Mike was saying, to get their ride along scheduled, to have it actually happen, to get the other guy to send in his paperwork saying that, yes, this ride along happened, and then they have to wait for the Provider to put the final stamp of approval on their rating certificate.

That's more hurdles and more time for them. So I see it as, like he's been saying, a good idea but problematic in the execution.

MR. COMMINS: Okay. Yes.

MR. EDGAR: Bruce Edgar from the Energy. I hear what you're saying, but unfortunately, there's an abyss between a new Rater who just finishes his field house test and going into his first house and trying to figure out what he has to do.

And I was a Rater for six years before I came to California. My first Title 24 job here, even in a larger company where I had training, was a disaster, all right, because I did not understand fully what was going on.
MR. EDGAR: Somebody had to come in and do it. I couldn't finish it. That was the first one. But even with all my experience and even coming out of a company that has a team of Raters that do help out, I can't imagine a Rater that's working alone that hasn't had the experience that I've had that comes out of a field house test and trying to do his first house.

I just can't imagine him even doing it at all. So regardless of the expense, I can't see that an individual Rater would even be able to get started with the CalCERTS training as it sits right now. It's not enough, because as much assets that you have in the training, the difference in the field are vast.

MR. COMMINS: Okay. Do we have any comments online?

MS. MacDONALD: I do, Kevin Walters.

MR. COMMINS: Okay.

MR. WALTERS: Yes, I would like to make a comment. Can you --

MR. COMMINS: Okay. Go ahead.

MR. WALTERS: Okay. I'm a Rater. Kevin
Walters. I'm a Rater here in the San Francisco Bay area with a small company. I did learn from my uncle-in-law who is a Rater and I work for him. Yes, you're right.

The initial learning curve is very high and it is slightly terrifying going into a house. But I see the flip side of this and having some sort of apprenticeship program it sounds great on paper, but there's so much of a liability you're assuming that this Rater is not looking at it going, hey, he's my competition, I'm going to train him how to do this incorrectly.

You know, there's just so much liability in that. But then, the other thing is, yes, it is cost prohibitive for somebody like me to take on somebody to train them, but if it was to the marketplace like you said, or like somebody said, then we could maybe let, let's say, CalCERTS know that, oh, me, Kevin Walters, I will take on a trainer -- or I will be a trainer, jump through whatever hoops that means, and then you know, if somebody wants to ride along with me for a week it's 500 bucks, or, you know, something along those lines where it's not going to be necessarily -- I don't know.

I mean, it's a lot of liability for you guys to be able to enforce that, you know, that we're telling our training the right things and whatnot.
MR. COMMINS: Yeah, that's true, that you know, we can't be there and make sure, and just because a Rater's been out there doing this forever, you know, for 10 years doesn't mean that he knows 100 percent everything that needs to be done, but like you mention, there's a big learning curve that, you know, the first houses that you go out to and just being able to have gone with a Rater, even if you only get 75 percent of what's actually required, it's a lot better than probably, you know, what you would have come out anyway. But so you know, we've had the Providers on both sides, I think, that's explained that there's good and bad. And so I think we're just going to have to sit down and have some more discussions with staff and reach out a little bit more. I don't know. We'll see. David's got another comment.

MR. HEGARTY: I think you have to remember that it also helps the Rater who's training, too.

MR. COMMINS: Well, yeah.

MR. HEGARTY: Just like teaching Sunday School. You learn more by teaching the children than you actually teach them, right? I know, it's hard to believe.

MR. COMMINS: But you --

MR. MIKE BACHAND: Mike; I just have a short
comment. I'm not opposed to an apprenticeship program. I think that would be great. But I think it should be - I mean, it could be voluntary, number one, but number two, it could elevate Raters to a better status. I agree to that.

The training could be better. It could be organized. The apprenticeship programs as they are traditionally done are organized. They have a process you go through. You do this. You do this. You do this. You're out. You're a journeyman, et cetera.

So you know, I think that could be developed separately and have different impacts on the Provider's relationship with an apprenticed Rater versus a non-apprenticed one. And so maybe if you're -- you know -- you may not be able to design all of that now in this rule-making, but maybe you could leave the rule-making in such a way that an apprenticeship could be developed with due process.

And then so it wouldn't rule it in and it wouldn't rule it out. It would rule it possible in the Regs.

MR. COMMINS: So we've had some discussions about -- so if we put everything in the Regulations, if we need to make any minor change, if we want to add different things, you know, it's basically impossible.
So there are some discussions about maybe coming up with some type of something similar to the residential manual, a manual that, you know, would have, like different forms, the checklist to be used by the Provider when it goes out into a QA, and different things in that manual that we could make changes to. So that's another something that we've been throwing around that --

MR. HEGARTY: Guidelines.
MR. COMMINS: Guidelines.
MR. HEGARTY: More like guidelines.
MS. MacDONALD: Yeah.
MR. COMMINS: So that, you know, maybe the code, the Regulations would speak to it, would be pretty broad. Then in the manual would be -- well, the guidelines. So just to throw that out there. And so you know, it's possible just in this example is a perfect example of where, you know, in the Regs we can put in there some language along that line, make it possible to happen, and then in the manual, that we develop that further, so.

MR. NESBITT: This is George Nesbitt. There are some professions in California, like probably being a hairdresser, that probably require you to have several thousand hours of experience before you can, you know,
get your certification.

And I can imagine that many of them are far less complicated than what we do. You know, different — depending on people's backgrounds, their skills, how fast they learn, you know, some people need more help than others.

I mean, some people, five-day class is not enough. Even myself, I'm sure there are things I'm not doing. There's just too many weeds. So and the difficulty is -- yeah, you want addresses, Dave? I work for Dave. No.

The thing is, because there has been a general lack of QA there's a lot of time that can go by and jobs that can be done and you're not doing things right. And then there's no feedback. There's no feedback beyond the individual.

And the question is even, does the individual get adequate feedback. So you know, if you're finding things with QAs that people are doing right and if you're sort of not telling all the Raters that these are the kinds of things we're finding, you know, sometimes we have these aha moments like, oh, really, I'm supposed to be doing that, right?

Oh, you mean, you're supposed to put all your failures in the Registry, as opposed to just, you know,
saying that it passed in the end even though you
retested it? You know, I mean, there's a lot of things
like that, that mistakes we're making just because it is
so vast, it is complicated.

There are things that are up to
interpretation. Some of the interpretations that are
out there we don't think are right. You know, so what
we ultimately want is we want a HERS -- and there's a
lot of people that look down on us as HERS Raters.

The "building performance contractors" think
we're all a joke. Some of us are far better qualified
than they are, yet, the end -- you know -- HERS Raters
are not viewed as being intelligent or professional or
you know, having skill.

And so I think we do want -- you know -- we're
not helping ourselves, putting people out to work that
aren't qualified. Whether we put in standards that
would be best if people have to either prove experience
or skill, or some people would have to work with someone
for a while before they could get certified.

How we put it in the rules, I don't know. And
it varies individual to individual.

MR. COMMINS: Okay. Don Charles.

MR. CHARLES: Yeah. I was just going to
suggest, you know, maybe -- you know -- a ride along
process may be, as many have suggested, logistically very complicated. But I think if somebody knows their job, you know, performing it, technically or mechanically in actuality may be one thing, but I think you have to first have the knowledge base to even do it. What about such a thing as accomplishing something very similar, but doing a phone-in process where, basically, a Provider trainer grills, you know, a Rater over the phone and walks them through several different procedures to find where there may be holes in their understanding of how they perform their job? That might be an added certification where instead of a ride along it's a call-in training process where they have to answer certain questions about and beyond their testing, almost as if they're performing the job in the field and they walk through that process, and a qualified trainer would be able to spot potential issues pretty quickly, I would think, if the questions were asked correctly.

MR. COMMINS: Good comment. So I actually had another question. So under the Acceptance Test Technician Certification Provider Program the electrical group, what they've done is they've required anybody before they become certified to do the tests for electrical is that they have to go to a online training.
So I'm wondering if it'd be possible and beneficial that, for example, that we require that a new Rater before they become -- can attend training that they watch videos on every single measure that they're going to be certified to.

And I just wanted to get the group's comments on, you know, putting that into the regulations that, you know, Provider needed to have training material available online and that that be required before they went to the in-house training.

MR. HEGARTY: I'll make a comment on that.

MR. McKINNEY: Max McKinney, Energy Analysis Comfort Solutions, too close. Main issue with that would be -- and we've -- a couple of other people have mentioned this already is the diversity of the situations that we actually test out there.

As you were mentioning that I'm thinking, okay, we'd need a program for or a video on this facet, this facet, this facet, and all of a sudden, I'm already over 100 in just a couple split seconds.

MR. COMMINS: All right. Right.

MR. McKINNEY: So there's a limitation on that. Also, just seeing it on a TV screen or computer -

MR. COMMINS: Right.
MR. McKINNEY: -- there's a whole lot
difference than being in the real world, under pressure.

MR. COMMINS: I agree.

MR. McKINNEY: Being observed by a contractor
or homeowner. You've got time constraints. You've got
all kinds of furniture and other issues to contend with.
A video's great. It's better than a written procedure,
but it still will never take the place of real world
experience.

MR. VANTAGGIATO: This is Alex with CHEERS.
We fully support online training as an addition to hands
on life training. We think that theory can easily be
explained through a PowerPoint or a video, but
nonetheless, at the end of the day you're still going to
need to have that hands on training with equipment and
an actual house and so forth.

So I think a hybrid of the two would be a good
thing. And I think the online portion is good because
it gives people the ability to review the material over
and over, rather than sitting in a classroom where once
the speaker is done with that session they're going to
have to move on. They can only spend so much time on a
particular subject.

So as Max was saying, I don't think that
videos and online should be the only training, but I
think it would be a good addition to actually hands on training, as well. So supplemental, I guess you could say. So I think a hybrid solution would be ideal, in my opinion.

MR. CHARLIE BACHAND: And this is Charlie --

MR. CHARLES: This is Don Charles. My only suggestion on that would be I think the industry should look at creating that versus individual Providers. I think that would be burdensome to add that.

It's not cheap to do video production and quality productions. I think that if something like that were going to occur I think it should be done where the industry at large could benefit from it, and have it streamlined to where one guy's video on a process is not so, you know, maybe greatly different than somebody else's video.

I think this is one of those areas where there could be an agreement in how a procedure is done and what it looks like and how to make that come to pass, versus having each Provider, you know, put out four different videos on the same process.

MR. COMMINS: Right.

MR. HEGARTY: Dave Hegarty, Tav.

MR. COMMINS: Go ahead, Dave.

MR. HEGARTY: RESNET has that in place now
with CAS testing and some other issues and they sponsor the videos. So I think it's -- and it's an Internet active video. So it's something that we could talk to RESNET about and get that stuff down.

We spent, CEC spent thousands or hundreds of thousands of dollars on videos, and they can do an interactive thing very inexpensively these days. And I think -- I've been through that training and it's very, very comparable.

Or I shouldn't say comparable. It's very good, good training. So having been through that stuff and through online training, I think it saves us from having to -- more greenhouses gases, more expense, all these things that would go to actual, physical training as much, but -- and you need that physical training, as well, but these things are mitigating those things that we're trying to overcome anyway, right?

MR. CHARLIE BACHAND: This is Charlie Bachand, from CalCERTS. I think it's not difficult and it's not even a very great step from what we have now in Title 20, for CEC to specify that every measure should be covered in the educational material. I think that would be perfectly appropriate.

I think that it would be inappropriate for the CEC to specify which materials should be covered online
or not; I think that leaving it as an option for the
Providers to select among some of the things that you've
said.

So you might have five measures that you think
must only be taught in a hands on situation, like the
hands on training requirement that already exists for
all Providers. You might think that others lend
themselves to videos. So you might make that an
optional choice.

This education may be offered either online or
not. I certainly wouldn't expect to see the CEC specify
that and I think that that would be problematic. But
allowing it would be a very useful thing, clarifying to
all Raters out there that online education is an option
to them.

And slightly tightening up the rules in Title
20, outlining what exactly Providers need to educate
about, that would be welcome.

MR. COMMINS: Okay. So why don't we go onto
the next slide. So as I'd mentioned, a lot of Providers
and Raters have commented that they would, especially
Raters, that they would like to start attending QAs,
that they should be made aware of when a QA is going to
be occurring and have the ability, or if they would like
to attend they should be able to attend those QAs, and
that there's a lot of information that can be gained by attending the QAs.

I think staff totally agree with that, but we wanted to get the Providers reason, pros and cons of why this would be good or bad, and then maybe from the Raters, as well. Just wanted to get your explanation of whether, you know, Raters should be allowed to come along on ratings at QAs.

MR. CHARLIE BACHAND: I have a quick question, Tav. This is Charlie again. Is Energy Commission in any way considering making QA no longer random? In other words, letting the Rater know before the fact which address they will be QA'd on, because right now, in 2005 standards that was allowed.

In 2008 and 2013 it's not allowed. Are you entertaining the notion of going back to that?

MR. COMMINS: So I think in order for the Rater to be able to come along they would need to know at least a couple of days in advance that a QA was going to be occurring and that -- and maybe the city that it was going to be located in.

You know, maybe not specifics of where it was going to be occurring, and you know, maybe not till the day of, you know. Sacramento -- sometime next week or Thursday next week in Sacramento you're going to have to
QA at 11:00 o'clock. We'll let you know, you know, in the morning exactly when that's going to be occurring.

But you know, that's -- so right. So if they would be coming along on a QA they would need to have some information about when that would be occurring, yes.

MR. CHARLIE BACHAND: Where.

MR. COMMINS: And where. Alex.

MR. VANTAGGIATO: Alex from CHEERS. To answer your question, we -- well, at CHEERS we allow Raters to come and attend the QA upon request. But we only call them and inform them once our QA Raters are actually on site.

So they don't know ahead of time. So the whole problem with contacting them ahead of time, I'm sure everybody agrees, is because we don't want them to show up ahead of time and fix whatever it is that they should have fixed to begin with, right?

So our Raters call in once they're on site, this is the HERS Rater requested to begin with, and say, hey, we're here right now. If you want to show up, great; if not, don't worry about it. We're going to do QA.

And to this day, nobody has taken up to the offer. So nobody has shown up yet. That's fine. But
if they were, I want to make sure that, you know, we
make it clear that regardless of whether they're there
or not, a QA is a QA.

And if we were to find something wrong,
obviously, we would show him and say, hey, look, this is
what you did wrong and that would be a "training
opportunity." A QA failure is still a QA failure, and
that's the overall, arching important thing, right?

We could use QA as a training mechanism and I
think that's important, but a QA failure still remains a
QA failure, whether the HERS Rater was there or not. I
think what's important, like I said, is the fact that we
don't give them the opportunity to go back and fix
anything that was broken to begin with, before we got a
chance to be there first. That's all I got.

MR. COMMINS: Well, I guess one of my concerns
is, you know, you're out there and you've got a Rater
that's being difficult and they can make the QA person's
life difficult, as well. So I guess if we decided to go
forward it probably would be -- I don't think we would
require it. We would allow it. Charlie.

MR. CHARLIE BACHAND: This is Charlie Bachand
from CalCERTS. I think that's a great way of looking at
it. Just to point out two more issues with making this
mandatory. One of them is the logistical burden.
We already have, as you guys know, a significant portion of our staff dedicated to scheduling and performing the QA. If in addition to that we have to stay in contact with all of our Raters and start trying to notify them all, well, in one week we will be in Sacramento, but we can't tell you what ZIP Code until Thursday.

MR. COMMINS: Right.

MR. CHARLIE BACHAND: That to me represents a huge logistic ordeal that would be very difficult to overcome. The other thing I'd like to discuss about this issue and it's one that I bear in mind because it has happened to us in the past, I have had Raters come to me, telling me that they are being threatened with fist fights from contractors or other Raters when it comes to QA, saying, my work passed and if you disagree we can go in the parking lot to discuss it.

That's a legitimate complaint that's been passed on to me. The other complaint concern that I have is I would say somewhere between 10 to 20 percent of the complaints we field every year are from homeowners who are in the midst of a lawsuit against their contractor because they're not happy with the results that they got.

I can only imagine the additional joy of
subpoenas and fighting courtroom battles and everything else, if in addition to that mess we throw in the Rater and the QA Rater at the same place, in front of the homeowner, all three of them arguing about whether or not a particular HVAC system meets Title 24 or not, because that's easily $10,000 riding on the line.

So I would be very concerned about making that a mandatory requirement because unless there was some sort of protection involved our QA Raters would be very vulnerable and our own Raters would be very vulnerable to attacks from the contractor.

MR. COMMINS: So again, I think if we decide to go that way it would only be allowed. I think -- and like, it can be a good training opportunity as long as everything is in place, everybody's receptive to what's going on, and you know, the procedures are followed to make sure that failures are failures and they are entered. So I guess that's the one thing.

MR. MIKE BACHAND: This is Mike at CalCERTS. There's something else you could do on this. You can parse anywhere along the line of all of the things that we're talking about. You can parse between new construction and existing buildings.

So on existing buildings it's a parking lot discussion, and new construction, it's not the same type
of situation. The contractor's probably not there. The homeowner's definitely not there, because well, the builder is the homeowner at that point.

So you know, some of these things that we're talking about, we could do different things in different situations.

MR. COMMINS: Right. And then --

MR. EDGAR: Bruce Edgar from the Energy. It also makes a difference whether you're dealing with a new Rater or an experienced Rater. So the new Rater's going to want --

MR. COMMINS: Right.

MR. EDGAR: -- to want to be there to learn. The experienced Rater's going to want to be there to defend himself.

MR. COMMINS: Exactly. Exactly.

MR. CHARLIE BACHAND: This is Charlie Bachand from CalCERTS. I did have one other thing to mention. I think that CalCERTS is not alone amongst the Providers now in trying very hard to get information to Raters when they fail.

So in particular, I believe that CHEERS also is sending out fairly lengthy notices to Raters when they fail QA, and we do that, as well. I think that that needs to be something that all Providers do, is be
very informative to Raters when they have failed or when they have a discrepancy, why and what could be done to address that.

And I could even see the benefit in the future of sharing videos of QA with the actual Raters who had been QA'd. So I think sharing that information is important and also feasible for the Providers, but just not necessarily in this format.

If they volunteer for it or if they're very interested in it, that's one thing. You've already said that it wouldn't necessarily be mandatory.

MR. COMMINS: Right.

MR. CHARLIE BACHAND: So that's fine. But I do think the email technique is the best way of getting them that information.

MR. COMMINS: Okay. Don Charles, actually, before we go to Don Charles I just wanted to mention, I actually have an attachment where one of the things I plan on doing is putting specific requirements in place, putting, as I mentioned, making kind of forms and checklists.

In one of the checklists, one of the forms would be a description of what a Rater QA needs to include, and so I will show that. I've got the link I think on the next slide. And so Don Charles, if you
want to go ahead.

MR. CHARLES: Yeah. I was just going to say that, you know, I can definitely see what some of the other Providers are thinking as far as possible confrontations in the field doing live QA. But I think the way that most audits are done is that the auditor really doesn't comment.

He's just there to observe and follow procedures and mark down whether or not those procedures are being done accurately and appropriately or not, and then submit their findings. So I don't think it's something that's a discussion point in the field when you're under audit.

You go out in the field with the Rater. You observe them practicing those procedures and you're taking your comments and notes, though, and the Rater would receive a report later on whether or not they passed that QA and whether or not they did their job appropriately or not.

MR. COMMINS: So the discussions or the letters that we have received, comments that we have received, for the most part have been that they would be kind of discussing, and as they're going along they'd be talking about, this is what they're looking for.

This is what they're finding. This is the
problems that we're finding. This is how you could do it better. This is the right way to do it. So I think that that's the way that most comments have been, that they would like to see the -- to go forward, actually. Charlie has a comment and then we'll go to Dave.

MR. CHARLIE BACHAND: I'll be very brief. Don, I'm not sure what your QA Raters say to homeowners that expressly and directly ask them, did my own pass, can I see the results, can I look over your shoulder and read the manometer (phonetic).

At CalCERTS we have found that to be very difficult, to tell the homeowners in their own home that they're not privy to that information.

MR. COMMINS: I think you --

MR. CHARLES: Yeah, I totally understand what you're saying. What I'm mainly doing right now is brainstorming and trying to think of -- you know -- I know, as I'm sure you guys do, there's a lot of logistical issues with getting with the homeowner and trying to make these things happen.

And you know, I could very well be wrong on this. It's just for brainstorming purposes only, but I think that there may be some logistical benefits to going to that house to do the audit at the time that the Rater is going there for the schedule they've set up.
So but I'm not saying I'm right on that, just brainstorming and trying to improve the process, how it might be more efficient and how QA might be able to be accomplished at a higher and more efficient level.

But again, not -- this is just brainstorming from my -- I'm shooting from the hip right now, not saying that this is the best way to go, just throwing everything out on the table.

MR. HEGARTY: Put your gun away, Charles.

This is Dave Hegarty. I'd like to comment just to say that in fact, if we're talking about what's on the slide today there is no -- you've heard consults, CHEERS say that not many Raters ever attend, if any.

And if you put in a system where the first QA brings a problem and then they can attend the next one if they choose, I just want to comment on the Providers so far, QA post-2012. Having said that, a lot of education has gone on between the Providers and the Raters and those things that happen prior to that, like an old friend of mind from RESNET told me that the past is the past, and we worry more about the future.

But the fact of the matter is that the QA's gotten a lot better. They're more educational, and I wouldn't say softer but more explanatory. And so I think that the option to go out there should -- it
should be an option and when it was offered prior to 2012 it was because there was such a hard stance that Raters didn't always believe that Providers provided the correct QA or correct situations.

I think that we've gotten away from that, if I might -- at least from our standpoint. But all the Providers that we've worked with so far have been really good about making sure we understand where the mistakes are and that how we can do it and how we work with the contractor to go back and correct that, if in fact it's correctable and those kinds of things.

That's one thing that I worry about as a Provider. As a third party energy inspector I want to be able to correct that problem if the Rater didn't catch it or if it's a mistake or if he didn't do it, you know.

Whatever the case may be, as an agency -- and I know that Eric feels the same way for Energuy -- you have to make sure that the homeowner gets protected in the end. Let's call the contractor. Let's go out and get that fixed, right, and that's happening now. We're really respectful of the Providers for that.

MR. COMMINS: Thank you.

MR. HEGARTY: But it's the system of ladder system is what the point was to all this. Go out to the
first QA. If you sense a problem you've got to go back
and do a more stringent QA anyway. So then offer to let
them come with you, you know, if they want.
You can see that Alex said nobody ever comes
anyway, but the point is, at least it's an option.

MR. NESBITT: George Nesbitt. There's a
difference between QC and QA, Quality Control versus
Quality Assurance. Quality Control is where we -- you
know -- you randomly pick parts, you test them and you
throw out the bad ones.
Whereas, QA is about identifying process and
problems and hopefully eliminating bad parts from being
created. So having, you know, some ability and the
option to do QA with the Rater, use it as training would
be part of a QA process.

MR. COMMINS: Thank you. Anymore comments?
MR. WALTERS: I have some stuff I'd like to
add.

MR. COMMINS: Okay.
MR. WALTERS: Yes, please. Okay.
MR. COMMINS: And who's this? Kevin Walters?
Okay. Go ahead, Kevin.
MR. WALTERS: Yeah, Kevin Walters
Refrigerator. Sorry. Okay. So a lot of stuff was said
and that whole question of what is QA. You know, it's
about what the Rater does. And we were talking in a
previous slide about this new Rater's apprenticeship and
there should be a natural marriage right here in this
slide between these new Raters learning and this QA
process.

I mean, I don't think anybody would object to
me saying that hands on learning is by far the best way
to learn, and who better to do it than these QA people
that are supposedly trained to a higher standard than
the actual Raters.

I mean, I hear that going back to jobs that
are complete you get notes from the homeowners. You
have excuses by the HERS Raters, those more experienced
HERS Raters. You have, you know, hostility and fist
fights and then this potential for lawsuits.

And then on the other side of things, you
know, as Dave said from CalCERTS, it's a logistical
nightmare to schedule, you know, these QA things. And
so why not make it so that -- put it on the HERS Rater
to make it part of the QA process, to call in and
schedule, hey, CalCERTS, I'm going to be -- you know --
when's the next time you're going to be down.

Okay. You're going to be over in my neck of
the woods next month. Okay. I'd like to schedule an on
site QA for a job that I'm going to be doing that day.
And instead of it being a QA as a past tense thing where we're going in after the job's complete, why doesn't the QA personnel go in while the Rater's doing the job? They're going to be able to see the process that the Rater actually does. They're going to be able to make it way more of an educational situation. It's going to be transparent to the homeowner in almost every case, transparent to the contractor and it's going to provide these new Raters with a huge amount of proper instruction and almost no liability.

So I mean, I don't know if that's going to be possible or not, but that's the main benefit that I see in kind of marrying those two.

MR. CHARLES: That's kind of what I was trying to suggest, but again, I'm not saying it's the best idea, but I think there's some merit there somewhere, not quite sure where to fully flesh it out yet, but I think there's definitely some opportunity in there somewhere.

MR. COMMINS: Okay. Anymore questions? Okay. Let's go onto the next area. So at this time whenever a Provider finds failures there's often questions of, you know, who should I be letting know that this house is not meeting the requirements.

So we've got a list of five different
organizations there or possibilities. I just wanted to
get the group's comments on, of course, the Rater, that
always occurs. But what about the rating company or a
contractor or CSLB or the Energy Commission?

Just wanted to get your comments and feedback
on -- no, homeowner's not there. So that needs to be
added, as well. So I just wanted to get your comments
and feedback on, you know, these -- who should the
Provider be letting know that there was in fact a
failure after all the investigation's been completed.

MR. HEGARTY: This is a stocky wicket because
of the fact that we don't know how long the time frame
has been and who's been in there. You start blaming a
Rater or you start blaming a contractor or, you know, a
number of things.

If you've experienced, and I'm sure my other
Rater friends here can tell you, when you throw a
contractor under the bus with a homeowner you're in some
real trouble there.

MR. COMMINS: Right. Right.

MR. HEGARTY: There's some issues with this,
you know. So staying within, you know, unless there's
some big or a lot of failures, the -- you know --
keeping it within the Provider and the contractor and
the Rater for now, and maybe the CSLB and the
Commission, but the homeowner has to be really vetted
before we can talk about those things and who's really
at fault here.

MR. NESBITT: George Nesbitt. That was Dave
from Duct Testers that just spoke. Read the sign, Dave.
So I believe in the Residential Appendices it says when
a HERS Rater tests and there's a failure, they're
supposed to tell the homeowner, right.

So if there's a QA failure wouldn't the
homeowner also have to be told, because it's a failure?
Although this brings up another point I keep bringing
up, the handwritten or the sample CF3Rs that the Energy
Commission publishes say for each section, is this a
pass or a fail or is it not applicable.

Yet, in the Registry I cannot issue a 3R or a
6R or a 4R in the past that actually says "fail," and
issue it to a Building Department. So you know, I mean,
you know, so if there's a failure we should document it.

It should go to Building Department. It
should go to the contractor. It goes to the homeowner,
and then if it's fixed and if it's tested and pass, you
issue another document that says "pass."

MR. MIKE BACHAND: This is Mike at CalCERTS.
This is a huge pit with alligators at the bottom of it.

When the Provider QA identifies a failure, who must be
notified? Okay. So first of all, we don't know what a failure is, but we're going to talk about that some other day.

But let's presume that we got there three days later. Everything fine in terms of logistics. It's a legitimate QA. We are QAing the Rater, not the system. And so that's what our responsibility is. Now, in the cases where the system's bad, I'll talk about that in a moment.

So a QA Rater goes in. He measures 118 CFM on a big old system. Sorry. The Raters goes in, measures 118, records it. We come out two days later and we read 58. Well, he read his meter 60 CFM wrong, but the system's okay. It's way better.

So we need to talk about, okay, who are we notifying about what kind of failure. And yes, most of the time it's going to be a system failure that the Rater, for whatever reason, passed. He's got his own issues. The system has its own issues.

And so when you've identified both tracks, who do we talk about what items to. So the Rater and the Rater company. The Rater is certified by himself on his own, by us or by Max or by whoever, and his boss isn't.

And so we've for years protected that information to the Rater. We got our ears peeled back.
Everybody hated that. Where's my Raters, this and that.
So I got to know what's going on. Okay. I'm fine with that.

But we need language to help us with that, okay, which goes to defining an entity. And we're not licensing people. We're certifying them. That's a huge -- that's a big difference in the law, as we all know.

Okay. And then the contractor, we don't have a relationship with him or her. CSLB, okay. We can do some stuff with them. Might be nice if we had a little bit of encouragement from -- a little language protecting us from getting our brains sued out for that.

And then the Energy Commission, we know you want to know everything. That's all good and well. And so I just think we need to think about what all of this actually means, that it's not just -- the word "QA failure" doesn't specifically identify what we're talking about. So that's my comment on that.

MR. CHARLIE BACHAND: This is Charlie from CalCERTS. I'll add a few more things real quick. The first thing I'll add is I think that the Building Department should at least be on the list for consideration, as well as the homeowner.

The second thing I'll add is, as Mike and as Dave indicated, it would be extremely difficult in my
opinion for the Providers to take the risk of notifying
the homeowners or the contractors or other people with a
QA failure without some sort of legal protection.

Thirdly, I'd like to say, there are a few QA
issues that actually do relate to health and safety,
particularly with obsessive duct leakage where the
platform is somewhat unhealthy, or a blower door test
that shows that the house is too tight.

So I think that should be considered by you
guys, as well. To add a further wrinkle to the
conversation, let's not talk about the one percent per
measure QA. Let's talk about the one percent of
associated homes QA.

MR. COMMINS: We're doing away with that.

MR. CHARLIE BACHAND: Oh.

MR. COMMINS: Wait. No, wait. The one
percent of the overall associated we're doing away with.

MR. CHARLIE BACHAND: Oh. So but you still
are doing one percent QA on sampled addresses that
weren't tested?

MR. COMMINS: Well, it's --

MR. CHARLIE BACHAND: It's up in the air?

MR. COMMINS: -- there's discussions. There
will be next Workshop.

MR. HEGARTY: So should we read that, Charles?
MR. CHARLIE BACHAND: So I need to add something to that discussion. One of the things I'd like to add to that discussion is if it remains, once we QA that address who on earth would we notify? The Rater's not necessarily even interested in knowing and the contractor probably won't bother to read our email when we send it to him.

So that needs to be addressed, as well. And I wish I had more suggestions, rather than problems to offer.

MR. HEGARTY: So I want to tag along with Charlie on that, because 1673(i)(4)(B), capital B, says, "Additional Quality Assurance for unrated or untested buildings or installations. For houses or installations passed as part of the sample group but not specifically field verified or Rater tested, the greater of one house or installation of one percent of all unrated and untested buildings or installations in a group sampled by the Rater must be independently rated or field verified by the Provider or they," in this say, "they can't contact anybody."

They can't contact the builder. They can't contact the homeowner. How are they going to do that? How are -- you know -- this doesn't make any sense. And
so the Provider are all going to be a failure because they didn't do it, right, and you can't do it. You have to notify the homeowner if you're testing unrated stuff. I wanted to add that.

MR. COMMINS: Okay. Mike. Did you have a comment, Mike?

MR. MIKE BACHAND: No. I was talking to Charlie.

MR. COMMINS: Okay. Okay.

MR. MIKE BACHAND: Off the microphone.

MR. COMMINS: Don Charles, did you have a comment?

MR. CHARLES: No, I'm good.

MR. COMMINS: Let's see.

MR. MIKE BACHAND: Tav, before you move on, I might -- could you go back to that last slide? We didn't talk about the last bullet point, did we?

MR. COMMINS: Oh, okay. Oh. This is supposed to be -- wait a minute. Okay. So one of the things that we're talking about is, so there's failures that are occurring out there. Right now, I don't think that the Provider, and definitely the Energy Commission, we don't have any clue about in what areas these things are occurring more often.

So one of the comments that came in was,
should there be -- should the Provider track where these failures -- you know -- whether it's in -- we haven't talked about, you know, how deep to get in. But you know, when you're doing a QA on duct testing, you know, 25 percent of the times you find a QA failure.

Or when you do, for QII, when you -- you know -- that's a 50 percent failure rate. Or you know, so I just wanted to get the group's input on whether it would be beneficial, because this could help us understand where the problems are that Raters are having and contractors are having problems, is if we start tracking where all of these failures are occurring, we could see problem areas. So I just wanted to get the group's input on that.

MR. CHARLIE BACHAND: This is Charlie Bachand from CalCERTS, and I'm sorry, Tav, but I have to take strong exception to what you just said. We have been tracking failure rates and reporting them to the CEC since at least 2012 for every measure.

If you look in Section 1670 -- sorry, guys -- Section 1673(i)(5), the last paragraph, "Each Provider will retain records of all complaints received and a response to complaints for five years after the date, and annually report a summary of all complaints and action taken to the Executive Director."
Well, since at least 2012 we've submitted that report, and included in it we've also broken down our QA per measure, what our requirements were, what we've done, how many of them have passed and how many of them have failed.

So we are reporting that and I think it's very useful information to have. I would encourage CEC to write that kind of transparency into the Regulations so that you have access to that data. And I just want to clarify, that reporting's been available to staff for some time.

MR. COMMINS: Yeah, and I apologize. I remember seeing that.

MR. CHARLIE BACHAND: Apology accepted.

MR. COMMINS: But that was a general comment, you know. Maybe other Providers aren't.

MR. CHARLIE BACHAND: Fair enough. I'll take a deep breath.

(Laughter.)

MR. MIKE BACHAND: Okay. Thank you. While Charlie's breathing a make a slightly different comment. Again, I know that you were making a general comment and you said, maybe where the failures are occurring, what ZIP Code and stuff, remember, QA is on the person.

MR. COMMINS: Right.
MR. MIKE BACHAND: Not on the geography or on the firm. So it's really more what measures is he having difficulty would be more meaningful than whether he had a bad duct test in Elk Grove or a bad duct test in --

MR. COMMINS: Actually, that's what I mean.

MR. MIKE BACHAND: Yeah.

MR. COMMINS: What measures not in location.

MR. MIKE BACHAND: Okay.

MR. COMMINS: But what measures were having difficulty.

MR. MIKE BACHAND: Good enough. Done.

MR. COMMINS: Alex.

MR. VANTAGGIATO: Yeah. This is Alex from CHEERS. I just want to second everything that Charlie said; very true. And then on top of that, and I think you mentioned earlier, both new CHEERS, I don't know if CalCERTS does, as well, that information is accessible on an ongoing basis to anybody that will get access to that stuff, right.

As far as the second comment that I see out there, the Energy Commission developing a standardized reporting form, one thing that I wanted to point out is because of the fact that all our Registries are separate and different and coded in different ways, I think it's
good that the CEC standardizes what is being reported.

But as far as what the report visually looks like, I think that should really remain with the actual Registry, because they're going to look different because they're different software platforms and so forth.

I think as long as the information you guys are asking for is there, what the actual report looks like is irrelevant, and the standardization of that, I don't think it really applies to the intent that you're trying to meet.

MR. COMMINS: Right.

MR. NESBITT: George Nesbitt. Yeah, knowing what's failing and why is important. I think it would inform, you know, other problems in training. What aren't people understanding, whatnot. But also, for the Commission and the industry in general to know what's working, what's not, but actually on the reporting you have multiple Providers.

They have different databases. If they're reporting this information to the Commission in different ways, how are you going to aggregate it and actually understand it in total?

So there may be, you know, there's some need I think for standardization, because ultimately, you want
to know the industry in total and not just this Provider versus that Provider. You need to know that, too, but you want to know the industry as a total.

    MR. COMMINS: Okay. So why --

    MR. CHARLES: This is Don from USera. I agree with Alex and is it George? I think that Alex is correct in that, yeah, we're all using different programming methodologies and things like that. I also agree with Mr. Nesbitt that there needs to be some sort of a standardized data.

    But I think what Alex is saying is the delivery of that data maybe look different, but it needs to be standardized in what numbers or what information we're providing. So I think standardizing what the information is, is one thing.

    Standardizing the delivery of it is another thing. So I agree with both comments, but I tend to lean a little bit more toward Alex only because I know from an IT perspective how difficult these things and we're all using methodologies. So but I think the data request should be standardized, but not necessarily the delivery component.

    MR. COMMINS: Okay. And that actually feeds right into QA tracking. So it can be difficult for staff to understand where the different numbers are
coming from, and also, Raters have sent us requests that they would like to be able to see their own QA tracking so that they can see where they are in the process and kind of overall, how they're doing.

So we have developed some templates. So as discussed, we need to have some additional discussions, or we just -- these are examples. So myself, Suzie Chan, Jim Holland and Todd Ferris worked on these quite a bit.

We sat down and the Commissioner asked us to take a close look at QA in general. And so the four of us got together to figure out, you know, in order for us to determine whether QA is required or not, how can we do that.

And so we came up with three different kind of lists or templates. So the first one is just figuring out the work that a Rater has done, and it's broken down by, you know, envelope, each of the HERS measures. And then it just goes, okay, what's the actual number that they've -- HERS test they've done.

Okay. Then what's the required HERS test. What's the associated HERS test and then what's the required associate HERS QAs. So what this does is it's easy for us to, as long as the data is auto populated, it's easy for the Energy Commission to see what's
required, how many they've done and what's required.

The next template that we've put together, what it does is it tracks all the QAs. So the first one is, this is the work that they've done, this is the required QAs and this is how many QAs have been done.

This document tracks the QA process itself and when a QA was done, and what the outcome eventually was, and whether, you know, it was a failure or not. And then for anything that's a failure we go on in order to track failures and make sure that the additional testing is being done that's required, you know, that's required whenever a failure is found, and then making sure that that tracking goes on and that they're bumped to the additional two percent QA.

That's what this document does, is it tracks all of the failures and helps us track whether the QA is being done on failures. You know, so this is just an example. We would want to work with all the Providers and get their input on the process of making the process of QA transparent so that it's easy to understand what has occurred, what is occurring and, you know, where they're going with the failures.

And so you know, this is just an example of what we would probably be putting in the manual so that, you know, in the Regs we would put some generalities or
a little bit more specifics than what's in there right now, and then in the manual we would, you know, put the things that we would like to see.

Or you know, we might just be, depending on where we end up, we might just be including, you know, even more specifics in the Regs. so I just wanted to get the group's -- so the first question I wanted to ask the group was, should a Rater have -- you know -- what's the pros and cons of a Rater having access to his own personal QA process so he can see, you know, where he is in the QA and how much QA has been done and where, and where the failures have been occurring and, you know, where he's having problems. So I just wanted to -- and Mike's got his hand up. So we'll --

MR. MIKE BACHAND: Not really. It flies up automatically. It's Mike at CalCERTS, yeah. In the past, and we don't want to talk about that very long, so I won't, you know, sampling and randomness was the crux of the matter for Rater QAs.

MR. COMMINS: Right.

MR. MIKE BACHAND: And for integrity of the process, which they went -- over the years staff has changed, by the way. So generically, whoever was up there at the time, you know, they allowed mentoring of the Rater during a QA process. QA was mentoring.
Then it kind of morphed into, it was more
disciplinary. And so randomness became important.
George Nesbitt correctly defined the difference between
QA and QC and the kingpin that -- George finally said
something good --
(Laughter.)
MR. MIKE BACHAND: The thing about QA is it
hinges on randomness. That's why QA works, because it's
defined what you have to do, and now it randomly finds
out if it's doing it. There's been since 2012 a big
industry first and probably Commission second movement
away from the randomness process.

The things that we've been asked to do have
specifically pretty much decreased the randomness. This
would do that, too. I'm not saying that's a bad thing,
but there's two things we can track with a Rater.

We could track, you know, if he can view how
many he's done, then he pretty much knows where he is in
the process, okay. But the other thing is, if we could
dissociate somehow, you've been doing really good on
duct test, but not on QII, but not necessarily tell him
how, you know.

I don't think that's the best thing. I think
giving up randomness is probably the best thing. It
simplifies the heck out of a lot of stuff. So you might
think that it lowers the integrity of the process, but I
really don't think it will.

MR. COMMINS: So when we talk about QA, I
mean, we're really going to get into all of the
specifics and randomness and so it's a discussion that
we need to have about, you know, at the next Workshop
about randomness.

My thoughts are, so I think I've talked about
how when they go out and do a QA there's going to be a
list of what's a failure for each measure and a list of
what's a discrepancy. So my thoughts are, you know, if
it's a failure and it's found to definitely be a
failure, you know, they said that they installed this
coil and they didn't, it's a failure.

We need to go back and we need to find out if
it's problematic and if it is, there needs to be major
consequences. But if it's a discrepancy, you know, to
me these are minor things that, okay, you know, they
passed the test, but well, let's go forward.

So my thoughts are, you know, we're going to
go into this more at the Workshop, but for failures it's
-- my thoughts are it needs to be random because we're
trying to find people who are trying to beat the system
and not do what they're supposed to be doing.

For discrepancies, you know, these are the
overall system passed. Let's go forward and look at what they're doing and help them out and make sure that the Raters -- excuse me -- the Providers' list of measures are -- his QA Report that he sends to the Rater, it lists what the problem was and what he needs to do to fix it in the future. So that was my comment.

Charlie B removal of the ongoing conversation with staff, I think that kind of transparency is not only great, but it should be mandatory.

One, very much in favor of this kind of transparency, because for many years the QA quota was unachievable and it was not necessarily a great idea to share that information with everyone, but if you were to say, well, Charlie, CalCERTS has been doing QA for many years now and it hasn't always been as transparent, why is that. The answer is, because for many years the QA quota was unachievable and it was not necessarily a great idea to share that information with everyone, unfortunately. And now that we're actually getting to the point where we have a QA quota that is reachable and ongoing conversation with staff, I think that kind of transparency is not only great, but it should be mandatory.

Mr. Commings: And then Dave.

Mr. Charlie Bachand: Sorry, Dave.

Mr. Hegarty: That's all right.

Mr. Charlie Bachand: This is Charlie from CalCERTS.

Mr. Charlie Bachand: Sorry, Dave.
And I think that the templates that you guys have suggested look very workable and very much like something that you should have at your disposal and that individual Raters and rating companies should have at their disposal.

Not only will the Raters want to know what their QA progress is, but the owners of the rating firms will want to know for each of their Raters what their QA status is, one, and two, why exactly they're being QA'd. Have they completed 150 duct leakage measures or 250 versus 100 RCA measures, et cetera. So all of that I do think needs to be available to Raters and rating owners.

MR. COMMINS: Okay. Thank you. And Dave?

MR. HEGARTY: Pass.

MALE SPEAKER: He'd rather play games on his phone.

MR. COMMINS: No. He's answering emails. He's wearing his business. He's been here too long.

MR. HEGARTY: That's right.

MR. COMMINS: Okay. Do we have anybody online that would like to comment? We're looking -- we're unmuting.

(Loud feedback.)

MR. COMMINS: The problem is that we've got
two callers that there's something wrong with their phone. So Rachel has to unmute it all and then she has to go back and mute those two callers that are having phone difficulties. So everybody is, for the most part unmuted.

MS. MacDONALD: Yes.

MR. COMMINS: So if anybody online, would you like to comment? Alex.

MR. VANTAGGIATO: Alex from CHEERS. I had a quick comment about the templates that you just showed. And I've seen those before. You have sent those before and we reviewed them. And seeing that template, again, I want to stress that it gives me the idea that you guys are going to deal with these reports, are going to look like.

And I just want to stress the importance that I feel in those reports being standardized by content and not by look.

MR. COMMINS: Right. Right.

MR. VANTAGGIATO: Simply from a cost efficiency standpoint, you know, it's not as simple as creating a spreadsheet in a computer. You know what I mean?

MR. COMMINS: Right.

MR. VANTAGGIATO: So I'm just bringing it out
there again, because it's important, I think to all of us.

MR. COMMINS: Okay. So we'll definitely get together and talk about, or again, so --

MR. VANTAGGIATO: We could call a meeting on its own just on templates.

MR. COMMINS: Right. It is. And so what I was -- so there's going to be some areas that -- so what I expect to do is open it up to everybody, but have some offline meetings.

MR. HEGARTY: Thank you.

MR. COMMINS: You know, put it out there saying, hey, we're going to be talking about QA tracking, who wants to be involved, we're going to have a phone call and you know, let's talk about -- let's get into the nitty gritty on these.

And that's going to be happening in a lot of different areas, that I think a lot of these, we just can't solve everything, the specifics, right here. We need to have offline meetings with people who are very -- understand exactly what's going on and, you know, have specific comments and want to get involved in that.

MR. HEGARTY: Thank you for including Raters.

MR. COMMINS: Okay. So we can have offline meetings.
MS. MacDONALD: In the spirit of transparency, I just want to clarify that we -- hold on just a sec.

MR. COMMINS: We're muting everybody.

MS. MacDONALD: Sorry. We can call directly stakeholders and providers and we can have conversations one on one. To hold a quorum and a discussion, we will do that, especially in relation to OII information or Regulation type thoughts or processes. You know, that would be in the public forum.

But in the context of, like, talking to CHEERS about one on one with your development of a specific form in your system, we can do that.

MR. VANTAGGIATO: Yeah. I wasn't talking about necessarily just one on one. I was talking about a group of industry experts coming together as a group.

MS. MacDONALD: Publicly.

MR. VANTAGGIATO: Sure.

MS. MacDONALD: Yeah, we'll do that publicly.

MR. COMMINS: Thank you. Any other comments?

Okay. So again, we've received a lot of comments from especially Raters, I think, no, and Providers, that the whole overall process of QA, like the steps that need to be taken needs to be standardized, needs to be written down so that everybody is on the same playing field as they're going through and doing QAs.
In this example here, this is where, just an example, of if a Rater was going to be notified. You know, if we decide to go forward that a Rater was going to be notified. This is just an example of, you know, of the process that a Provider would be required to go through to -- so that everybody is doing everything the same way.

Down here at the bottom was when I was talking about the QA Report. So again, QA Report, I think all of us should -- those who want to get together need to get together and talk about, you know, right at the top it needs to say whether it passes or fails.

You know, what's the measure, very clearly say what the measure is, and go through exactly what should be on that report so that it's very standardized so that we make sure that all of the information that is needed by the Rater is there.

And so again, so it's a standardized process, and I would expect what I plan to do is get -- you know -- put an announcement out there, who wants to work on this, who wants to comment on this and then get those people involved and get together and have a short meeting or a long meeting. Dave.

MR. HEGARTY: Max and I will do it. We'll work with you on it.
MR. COMMINS: Okay.

MR. COMMINS: So as I've made reference a few times, so the first form was kind of overall process, or the first document that I showed you, just showed you, but I've gone through and I've put together, when a Provider goes out there, what I've been told over and over and over again is that we need to know exactly what we should be looking at.

And within that, it needs to say, you know, what is a failure and what is a discrepancy. And so I've put together an example. So this is one that I put together on duct leakage and so, you know, so everything here, for example, would be a failure.

So first of all, they look at, well, how did they figure out the allowed leakage. And for example, if they said that they installed a four-ton and that's what they did, they allowed leakage on, and you go outside and it was actually a three-ton, I'm sorry, that's a failure.

You know, there's no ifs, ands, buts about it. That's a failure. You know, but there's just other examples that I put in here about what would be considered a failure. And then, you know, the things on Section C, which is, you know, your visual things.

So let's say that they passed the duct --
met the six percent leakage or an example was given earlier that, you know, maybe they're allowed to leak 150 CFM, but they actually put down -- and they put down that it leaked 100 CFM, but it actually only leaked 50 CFM, is that a failure?

No, that's not a failure. That's a discrepancy, you know. Hey, letting you know, make sure you put down the -- you passed your test, you passed your QA, but these are the discrepancies that I found. So a lot of the things that would be part of discrepancy would probably be, you know, the visual verifications.

So those are the kind of things that I was thinking about as what would be in a form. And so I can't do all this by myself, and so I am going to be sending out a request to Provider and maybe even Raters to, you know, put together, to work on a form that we would make that open for everybody to take a look at before we approved it.

But you know, I just wanted to get some examples together. And then here's -- so I talked about doing a field review. So that would be the field review. And then the form review would be, so the Provider, who's not going out to the field, he's opening up, going to his database and looking on there, you know, verifying that, is the correct enforcement agency.

CALIFORNIA REPORTING, LLC
52 Longwood Drive, San Rafael, California 94901 (415) 457-4417
Permit number might be difficult or impossible to figure out, but again, that's things that we need to work on. You know, is the address, ZIP Code, is all that information correct. And so, you know, different forms, reviews.

There's going to be different -- you know -- maybe all these things are discrepancies, but some of these things might be failures. So it's just going to be, as a group we need to get together and discuss, you know, what's really important, what's not so important. So what should be a failure and what should be a discrepancy.

Any questions, comments? Charlie?

MR. CHARLIE BACHAND: I think all of that looks great, and speaking for CalCERTS, we'd be happy to work with you on some of those protocols. In fact, we probably have some data that you would want to review in terms of how often does somebody go outside of plus or minus five percent on the duct leakage test, et cetera.

MR. COMMINS: Dave.

MR. HEGARTY: Dave Hegarty. Speaking of the five percent, what about those where we're two, and one and a half tons, five percent is very minimal. It's not even a couple of CFM. That's -- we're getting pretty
tight on that.

MR. COMMINS: Right. So yeah. I mean, actually, that's a perfect example of what kind of guidance needs to be in there. Right. If they can only -- you know -- 25 CFM, well, what's a ton and a half, what's the allowed leakage for a ton and a half?

MR. MIKE BACHAND: I don't know. It's in the Regs somewhere. Look it up.

(Laughter.)

MR. COMMINS: Thank you very much, Mike. So it's very little. So --

MR. HEGARTY: Very little.

MR. MIKE BACHAND: Thirty-six, yeah.

MR. COMMINS: So you know, that's the kind of stuff that we'll put in there, the guidance, so that when a Provider goes out there, they're all looking and using the same guidance and making decisions the same way.

So that's really what this process is about. When they're doing contractor everybody does it the same way and that we've come together as a collaboration and come to an agreement on -- most of us come to an agreement on, this is what should and should not be done.

MR. MIKE BACHAND: Yeah. It's Mike, and this
is not a barb at you. This is a real comment.

(Laughter.)

MR. MIKE BACHAND: These guys go across Providers. So one Rater has three Providers or more, God forbid, that they're dealing with and they're being QA'd by. And right now, Regs say every Provider does full QA, and so this is an opportunity to maybe combine that somehow.

I don't know. I don't want to look into their database and I'm sure they don't want to look into my database.

MR. COMMINS: Oh, interesting.

MR. MIKE BACHAND: But there's a gathering point somewhere that could be had, maybe, that we might think about. So okay. A Rater gets QA'd, but good God, three times on the same thing?

MR. COMMINS: Right.

MR. MIKE BACHAND: You know, that can take him up to three percent on him, but he's competing against a Rater who's only got one Provider.

MR. COMMINS: Right.

MR. MIKE BACHAND: And so it could be an issue.

MR. COMMINS: So we will talk about that quite a bit at the next Workshop.
MR. MIKE BACHAND: Thank you.

MR. COMMINS: But yeah, it's --

MS. MacDONALD: It's per measure, right?

MR. COMMINS: Yeah.

MS. MacDONALD: Yeah.

MR. HEGARTY: Dave Hegarty, comment on that.

That's the Provider -- or that's the Rater's problem for going to so many Providers. If he pays you to QA, right, I mean, that's -- wouldn't that be the thing?

I mean, if you're getting paid for QA, your Rater's paying for his own QA, he goes to two different Providers and he gets four tests on 100 systems, it's his problem, right?

MR. MIKE BACHAND: Yeah.

MR. COMMINS: It was a discussion we'll have in the --

MR. MIKE BACHAND: It's a cost issue. So yeah.

MR. COMMINS: Well, it'll be a discussion.

MR. VANTAGGIATO: This is Alex from CHEERS. Just wanted to clarify what Mike said. So the regulation already requires that if I move somebody two percent, I have to notify you and vice versa and stuff, right?

But you're talking, in particular, if
basically your results and mine aggregate together would come up to two percent, but we don't know each other because we don't deal with -- is that what you're talking about? I just wanted to clarify. That's all.

Okay. Thanks.

MR. COMMINS: We you saying even one percent?
MALE SPEAKER: Yeah, I was saying --
MR. COMMINS: I think he was saying one percent. So I mean, it's something to talk about, get people's input. Let's see.

MR. WALTERS: Kevin Walters. Quick question here about this slide. Is there any discussion about the transparency of the QA Rater in terms of tracking their stats, as well, in trying to identify QA Raters who maybe have gone sideways or aren't doing the most honest work?

MR. HEGARTY: No comment.

MR. CHARLES: So we got a Darth Vader Rater out there?

(Laughter.)

MR. COMMINS: We have --

MR. WALTERS: This way, you know, they're -- in speaking of a personal situation where there was a QA Rater that went back over another Rater's work and found it to have failed, and they contacted -- or the
homeowner then flipped out, contacted the contractor, contacted this rating company and it all went -- you know -- it ended up being okay in this situation, but you know, I mean, we got to look at it fairly on both sides.

If a QA Rater's supposed to be, you know, able to make these calls in terms of making these, whatever it be, a discrepancy or a failure, then they should obviously detract themselves. So I'm hoping with the new -- so if we come up with these checklists that are going to be very specific, then that should be occurring a lot less, because there's going to be a lot less up to the QA person, what is a pass or what is a failure, because we're going to have in the Regs or in this manual, you know, a checklist that's going to explain exactly, you know, what's a failure or what is a discrepancy.

So I'm expecting that, I'm hoping that wouldn't be a problem in the future, and I guess I can open it up to the group. I know, actually, Mike was -- okay -- Alex has a question or a comment.

MR. VANTAGGIATO: Yeah. This is Alex from CHEERS. I think, and correct me if I'm wrong, you know, one of the comments that he made kind of had to do, to me, also with QA Rater qualifications, right? So
basically, who's actually conducting the QA.

I think there has to be a difference between somebody who's a Rater and a QA Rater, because in my eyes the QA Rater should be the -- I'm sorry. Is there something?

MR. COMMINS: So the regulations do -- I can't remember exactly what the --

MR. VANTAGGIATO: It gives some minor --

MR. COMMINS: So you're saying we should have some more requirements in there?

MR. VANTAGGIATO: Well, I think the QA Rater should be -- couldn't just be somebody that has done ratings for -- like, there has to be more clear, defined standards of who a QA Rater should be. I guess that's what I'm saying.

MR. COMMINS: Okay. That's a good --

MR. VANTAGGIATO: Because a QA Rater should be at a higher level than a regular Rater, right? I can tell you that in CHEERS' case all our Raters are directly employed by CHEERS. They don't conduct ratings for anybody else. So the buck stops here.

So if somebody has a problem with what they're doing they call us and we tell them, that's the way it is. Like, there is no recourse to them. There's no way to basically punish them in any way whatsoever.
And then on top of that they have to have a minimum amount of years as a HERS Rater before they can be a QA Rater. So something along those lines.

MR. COMMINS: Right. And actually, that's not one thing that we were looking at. So thank you.

MR. VANTAGGIATO: I just think that's something that might be worth thinking about.

MR. COMMINS: I agree.

MR. HEGARTY: Not yet compliant.

MR. COMMINS: Any other questions, comments?

MR. CHARLES: This is Don Charles from USERA. I mean, I understand what Alex from CHEERS is suggesting. I guess as a businessperson here, too, and you know, we are all too familiar with agencies that over-regulate and become inefficient and impractical.

And so I just want to make sure that we are thinking about good policies that can be practically carried out that make sense, that we're not creating regulations upon regulations just to have more regulations, and that we are actually doing something that is serving the industry, is expedient that makes sense, and we're just not creating policies just because we want to sound good and we're covering every base.

I think we just need to be very careful not to create issues where there may not be one. I think
clarification is good, but I think we can -- we have to be concerned not only about what these policies do, but their ultimate impact on all the participants.

And I think kind of the standard should be is, you know, how broken is this and do we really, really need to add regulation upon regulation to fix it. So I guess it's just a caution from my perspective just to say, you know, hey, let's really think this through, and maybe if it isn't really, truly broken, let's be careful not to over-regulate it and now make it an even more burdensome process.

I think the providers are qualified to choose who their QA people are, as an example.

MR. COMMINS: Okay. Anymore comments? So another area of concern is, you know, the regulations are very lacking in the disciplinary process for when there's problems with Raters, when there's failures of Raters. And so in order to standardize the process we've received multiple requests that we be more specific on exactly what needs to be completed when -- for the different types of failures or discrepancies.

So one of the things that was brought up by several individuals was that for any time we have a decertification that we actually have like a panel made up of Providers, Raters and Energy Commission staff.
And I just wanted to kind of open that up to the group and get your -- what you thought of that as a -- you know -- would this be too burdensome, you know. Would this be too much work? Would we have people volunteering? So I just wanted to open it up to the group and get your comments on a decertification panel. Dave.

MR. CHARLES: This is Don from USERA. If I could --

MR. COMMINS: Go ahead.

MR. CHARLES: -- I wouldn't mind starting on this one.

MR. COMMINS: Okay.

MR. CHARLES: Because you know, I'm probably fairly newer to the process than some of the other providers. But I see this as a problem for all providers because in many cases, you know, we might be getting asked to stick our neck out to enforce something, only to know that the backing really isn't there.

I mean, we could use the whole conflict of interest argument that occurred earlier as case in point. You know, here, we're out there trying to enforce code. Here, we're trying to go with what our training materials say.
We're trying to do certain things only to have the writer of the code not even support what the code says. So I think I would like to see a process where maybe a decertification process is outlined, but I think the ultimate puller of the plug, so to speak, on determining decertification needs to be the CEC.

And my thought would be that the process would be outlined. The Provider would provide their documentation of the event that they believe might rise to the level of decertification, and then the CEC would explore that documentation, investigate on their own on those processes, and then they would ultimately determine whether or not that warranted or rose to the level of a decertification.

I think, you know, there's too much out there right now with a decertification possibly taking place, and then what good does it do a Provider to decertify someone, only to have that Rater go across the street and resume work.

And I'm not saying that we haven't taken advantage of that, but again, I don't think it's necessarily a good practice. And not to mention the potential lawsuits that could arise from that practice alone.

So I kind of liken it to, you know, a police
officer arrests somebody in a crime. They're not the one who then prosecutes them. They simply file their report. Then that goes to a court and the court decides whether or not, through a due process, whether or not that person's guilty of that crime or not, not the police officer.

I see the Providers in this role as more the police officers, you know, the governing body. We're the ones out on the street making sure that certain things are occurring, but when we file our report, you know, we need to be backed up and the laws that have been written for the state need to then take precedence, and the -- you know -- the attorneys and the judges, so to speak, in a court system would then need to identify whether or not that warrants a decertification, you know, comparing it to another type of a law process.

So hopefully, that made sense. I didn't articulate that point too well at the end, but I'm simply saying that I think the CEC needs to have the final say-so on decertification and not necessarily a situation where the Provider sticks their neck out only to have their head cut off.

MR. COMMINS: Okay. I think Dave had a comment.

MR. HEGARTY: Well, I liked it right up until
you said that last part, there, Don. This is Dave Hegarty, Duct Testers. First and foremost, right in the middle you said "due process." So and I think we're getting closer and closer to a better due process with the actions of what the Providers have done in the recent years.

But there was a time when we didn't have due process. So as long as there is a due process for Raters I think you're in good hands when you say, then, you can decertify. I do not agree that the CEC should have the final say-so over decertification, because the actions of the Provider are at risk there and not the CEC.

They didn't have a hand in that or shouldn't have had a hand in that, because clearly, Providers as we know are -- I mean -- CEC is not supposed to have hands on Raters at all. So I would disagree with that part.

And I did take very well the comment that he made about having the conflict of interest there. Thank you, Don. That was a very good point. Looking forward to when they can rescind their interpretation.

MR. CHARLES: Well, I think what I am simply saying on that, Dave, I understand your comments on what you're saying on that. I think the Providers are
responsible and I think by submitting their
documentation for what they feel rises to the level of a
decertification then needs to be vetted by the ultimate
governing authority who wrote the code to begin with.

So in essence, the Provider is decertifying,
but I think the reason why I'm suggesting that a higher
authority even than the Provider make that final
determination is so that that decertification is final
and that it goes across all Providerships.

That's my thought on that. It may not need to
happen that way, but that's just the way that I think it
gives the Providership a little bit of protection, in
that the rules of industry were violated, the ultimate
writer or author of the code agrees with the
documentation of the Provider and then they are pulling
that plug, not only on that Rater's certification for
that Provider, but across the industry.

That Rater is then decertified, period, based
on the investigation, and/or they come back to the
Provider and say, you know what, we feel that your
documentation lacks information and doesn't rise to the
level of decertification.

So we're going to recommend against that.
That's my thinking there, but again, I appreciate your
comments.
MR. HEGARTY: Was that before or after the investigation? That's what I'm saying. If you're saying that criteria for decertification would be outlined by CEC, that might be a point, but a Rater being decertified is on the Provider and should be, because that should be a cautionary position.

MR. CHARLES: I'm not necessarily disagreeing with you as long as when that decertification occurs that it is industry wide. Again, I don't think it makes sense to decertify somebody, because if we're saying that somebody's violating the standards of the industry, we're not saying that they're violating the standards of the provider. We're saying they're violating the industry.

And therefore, if that's vetted out and confirmed, I think that might rise to the level of removing them from the industry. And so I think that the reason why I think the CEC should have a higher degree of involvement there is because they're the author of the code. It's their law.

MR. HEGARTY: It's our law.

MR. COMMINS: So as Don mentioned, so he's kind of gone onto the second question or comment. So Alex mentioned earlier that anytime a Rater is moved to two percent the code requires all Providers to be
notified and to move that Rater to two percent, as well.

And then so the question is, if a Rater is
decertified, and Don mentioned that, yes, if a Rater is
decertified then all Providers should then follow
through with that decertification. And I just wanted to
get the group's thoughts on that, because you know,
especially as we're going forward we're going to have a
lot more hopefully standardized process on what is
considered a failure, what is considered, you know, a
discrepancy, and then the process that needs to be
follow [sic] to go to decertification.

And so I wanted, again, get the group's input
on if one organization, on Provider decertifies, should
all Providers decertify.

MR. CHARLIE BACHAND: This is Charlie Bachand
from CalCERTS. I'm real sorry, Tav, but I'm going to
touch back on the first bullet point first.

MR. COMMINS: Okay.

MR. CHARLIE BACHAND: Energy Commission has
already acted as a Board of Appeal for Raters who have
been decertified or facing decertification, and that
appeals process in one case was a 1230 complaint.

I don't know if it's beneficial or not for
Energy Commission to say, prior to a 1230 complaint an
appeal panel exists with CEC staff on board. But if you
do or if you don't you might end up in the same place of trying to decide whether or not a decertification holds, because after all, you've already been put in that place at least once already during the initial 2012 OII.

So I think that that's worthy of consideration. Staff is involved, whether they want to be or not, in decertification processes until those rules are clarified. With that in mind, if a Provider decertifies or moves a Rater onto two percent and all Providers do the same, I think regardless of what the answer to that question is, I, as CalCERTS, would feel much more comfortable knowing that Energy Commission was fully aware of and either supported or did not support the decertification process that had already taken place.

Given that involvement, I can see much more reason for agreeing with point two, that all Providers must adhere to decertification. If Energy Commission is not involved in those choices then I think that there's enough room for discrepancy or there could be enough room for discrepancy between Providers, and judgment calls on what or doesn't happen, that maybe it should not be required.

MR. HEGARTY: May I comment on that, Tav?

MR. COMMINS: One moment. Let me try to get
my notes. Okay. Go ahead.

MR. HEGARTY: It's Dave Hegarty. Charles, I don't remember the CEC making a ruling on that, just have not -- I don't think the CEC and the 1230 decertified those two young gentlemen. It was my understanding that they allowed --

MR. CHARLIE BACHAND: They stated the
decertification stood by implication, meaning that they had the ability to say that the decertification did not stand, but they chose not to exercise that. At least, that was my reading of the OII.

MR. HEGARTY: Okay. Of the 1030 -- 1230?

MR. CHARLIE BACHAND: Yes.

MR. HEGARTY: 1230. Okay. Well, I understand that. I thought they avoided that by saying they weren't going to stand into that, that they weren't part of that, that they weren't going to make any ruling at all.

So the fact -- so we just have a little disagreement on what they are doing, or what the result of that was. But being able to say that the CEC's been put in that place already, I would agree with that. I don't think they chose to be in the middle of it, though.

MR. NESBITT: George Nesbitt. I mean, I
think that we have clear QA and disciplinary.

Hopefully, it's less of a problem. Well, part of it, I think my understanding was the Commission basically -- the way it is, the Commission certifies Providers. Providers certify Raters. The Commission has no authority to decertify a Rater. I mean, and basically, what they were saying is that, you know, it's not their jurisdiction, and I don't think it is. The question, I guess, would be even if you have clear things written out, we're all humans, right?

The question would be, if we get to the point where there is serious disciplinary, and especially decertification, should there be a process that brings in people outside of just the provider, to look at it, to review it, to make sure that we're actually on the right track, because I think the problem is, really, the only process is for someone to file the 1230 or whatever complaint, bring it before the full Energy Commission, lawyers, process, expense, and that's -- you know -- I mean, that hurt everyone.

I mean, it costs everyone. That's not a very good process. so I guess the question is, should there be a process that looks at discipline, and ideally, it happens before it's handed down, because what do we see with police officers, cities, fire, police officers,
goes to arbitration. Seventy-five percent of the time they're reinstated.

So you know, do we want to make an action and then have it go to appeal, and then does that have the appeal right -- you know -- has the right to override it? I think we'd rather not override it. We'd like to look at it, is this fair, is this the right action under the circumstances, and then it holds.

And then there is no appeal. I mean, essentially, it would -- you know -- there would be no appeal after that.

MR. MIKE BACHAND: This is Mike at CalCERTS. I have an odd kind of question for hashmark number 2 there. What does it mean to be a Rater who's decertified in one Registry but not in the other? What does the consumer think of that? What does the contractor think of that? Okay.

You robbed a bank in Mississippi, but you're in California now. So you're not a bank robber, right? That's a problem for me.

MR. VANTAGGIATO: This is Alex from CHEERS. Following up on what Mike said, I totally agree with what you're saying. I can tell you the biggest hurdle to that is the fact that individually as providers we all have different processes, right?
I mean, we have the same regulations, but as far as how we do thing, as far as due process, we have our own ways of doing things, right? And I think that was one of the reasons that we actually -- there was a decertified Rater that came to -- well, actually, in the history of CHEERS there's been two decertified Raters that came to us and appealed the decertification they had.

And we looked at them on a case by case basis. We approved the recertification of one, but we did not approve the other because we felt that it was fair and he was standing for the reasons that happened.

I think it would -- and I mean, I'm just braining storming here. I think a decertification through all Providers would be good if at decertification time, once the decision has been made by the Provider that, hey, this person is actually -- needs to be decertified based on what we found, I don't think it would be unreasonable to think that a panel of a representative of each of the Provider come together and say, do we all agree that this person needs to be decertified based on the information.

And if we'll agree on it, based on the same process that we all use, then we can clearly say, this person is not going to be certified by any of us, moving
forward. And I think that's the kind of collaboration
that we need and that can be done.

I mean, the CEC passes down basic regulations,
right, that we have to follow. I get it. But as far as
procedural issues like that, I think that can be handled
in house by us. We are the Providers. We handle
decertifications just like Mr. Nesbitt said.

MR. COMMINS: So a formal process of review.

MR. HEGARTY: Dave Hegarty.

MR. VANTAGGIATO: And Dave Hegarty. Yeah.

MR. HEGARTY: Let me just comment on that real
quick here.

MR. VANTAGGIATO: Let's say that CalCERTS
recommends, hey, so and so messed up and this is why.
Then we all come together and you just present to us,
you know, we make sure that we have all followed the
same process.

And it can be in a formal meeting where we
say, we're recommending this person for decertification;
do you agree with it.

MR. HEGARTY: Collusion.

(Laughter.)

MR. VANTAGGIATO: Can't win, can I, Dave.

MR. HEGARTY: Dave Hegarty. Let me comment on
that.
MR. VANTAGGIATO: Great. Go ahead.

MR. HEGARTY: Out of all due respect to all the Providers here and to Con Charles on the line, you guys have all done that. Why are we talking about that with you? Every one of you has certified somebody when somebody else has decertified them. So let's -- oh, my -- I bet Max -- hey, I'm sorry, Max. Please forgive me, Max. That's not true.

MR. MCKINNEY: It's okay.

MR. HEGARTY: Okay. So let's get on board with one thing and be done with it, but you know, we've all -- not "we," but you have all done that, with all due respect and all for good reasons, I'm sure, we've all taken on Raters who have been decertified, one direction or another.

So I don't know why we're having this conversation. That's something that maybe Raters and the CEC should have, right? Just checking.

MR. COMMINS: Well, we're just trying to standardize the process and trying to get everybody on the same page.

MR. HEGARTY: Again, they've all done it.

MR. VANTAGGIATO: Well, yeah, but the reason we've done it --

MR. COMMINS: But that's because the
Regulations weren't clear what was required or what wasn't required. So if we --

MR. VANTAGGIATO: Well, I think it was required, the end point is -- was requirement that was correct, but all the steps to that point were not necessarily clearly defined. And yeah --

MR. HEGARTY: Any one of them could have said no. No, this is the right thing to do; you decertified him; I'm going to decertify; I'm not going to recertify him, right. No offense intended, because I love you all, right?

But I think it started outside -- I don't think -- you know -- I don't think it started with you, by the way, Mr. CalCERTS. But I think it started with others and when it happened, and then it snowballed. Well, you did it to me, so I'm going to do it to you, kind of thing, right?

So we're all culpable here. Let's straighten this out and move forward. If that's the right thing to do, then let's do it that way, but let's not sit here and agree and then do something different.

MR. MIKE BACHAND: Mike at CalCERTS. With all due respect, I believe you've mischaracterized us. We've never certified someone who has been prior decertified. We have a question now on our application
that says, have you ever been with another Registry or Provider; have you ever been decertified. And that's a death question at CalCERTS.

MR. HEGARTY: So Mike, I'm sorry, but you have and he was from Visalia. I don't know. Not you, I think.

MR. MIKE BACHAND: Well, we can talk offline about that. I don't know what you're talking about.

MR. COMMINS: Okay. I think we're going to move on.

MR. WALTERS: I got one quick thing, if you don't mind.

MR. COMMINS: Okay.

MR. WALTERS: Going back to that slide -- this is Kevin Walters, HERS Rater. Speaking as a HERS Rater, and hopefully for all of the other HERS Raters, you know, if there's gross negligence by a HERS Rater I'm all for decertification across the different Providers. That's fine. Let's get the bad guys out.

But you know, if we're talking about a panel needed of all the Providers in order to do this bad word, this decertification, then I also think that the opposite must be true. If there's some sort of an appeal process for HERS Raters in the QA world, then also, this QA process should go through this same kind
of panel of all Providers, and that's all I got on that.

MR. COMMINS:  Okay. Thank you. So I think

Rachel is going to take over now.

MS. MacDONALD: Okay. Thank you, Tav. So

based on discussion we have, it's clear we need to go

much further into QA, and I'm looking at Tav right now,

and I think we're going to go ahead and start developing

Agenda for this Workshop.

I will ask if you would email me your

preference for a Webinar, or if you want to come in

person again, I would like to have a kind of a similar

roundtable type environment and have a little bit more

developed language and specifics to really get into, we

are planning on going there with the two percent, the

one percent and/or what we kind of were touching on.

And I felt like a lot of the discussion was

going in the direction of between discrepancies and

failures, and that really lends itself to the thinking

of a new thought process or a valuing of each measure,
you know.

Is a visual tag being there as important as,
you know, failed duct leakage CFMs. So we'll get more

really specific on that Workshop. As for today, next

steps include having a 30-day comment period. Of

course, the docket is open regardless, but it would be
really helpful to staff if we could have comments filed
within 30 days.

So that would be, if you could please get them
to us by June 12th and contact me if you have any
questions. And in those comments, because we'll be
right around this time, if we're looking at having a
late June, early July Workshop we'll be right in the
throes of kind of finalizing our Agenda.

So in your written comments if you can write
suggestions as far as QA specifics, that would be
helpful. I will look at getting an actual date posted
for a public notice to go out for that Workshop date.

The other thing I'm going to ask individual on
the phone and those of you present, if you know of any
industry happenings in June, July that would conflict
with having a meeting, let me know so I don't schedule
that date only to find out, no, that's the worst date on
earth because I'm going to be at the XYZ industry
seminar. So let me know.

Or Providers, you know, if someone's out on
vacation, coordinate with me and let me know, we have
dates that just don't work. You really help me out by
letting me know, versus me scheduling and then
rescheduling.

So going forward, all future activities,
including this Workshop, Webinars, we notice them through the Building Standards List-Serve. So make sure you are on the Building Standards List-Serve. Of course, you can email us and we can forward you links, too, but it's just helpful to be on the Building Standards List-Serve, and a few slides actually have those links listed.

I will have this actual, these slides posted and I'll have them sent out to the Building Standards List-Serve, actually. I'll have them posted today or tomorrow. So comments, if you can keep your comments specific to the scope of the Field Verification and Diagnostic Testing.

Include the docket number, or the proceeding number, which is 12 HERS 1-1 and email them directly to Docket@Energy.ca.gov. You can also send a hard copy.

And just some helpful hints about filing comments, just thinking about -- and that's what was really helpful when we read the comments that we have to date, was that they were very succinct and specific, with who this was impacting, what you wanted to see happen, when.

You know, obviously, a lot of things, people want things right now. The where, if anything is applicable in regards to specific tests and climate zones, for example. Why we should be changing
Regulations and the reasoning.

I also appreciate the comments made about over-regulating and I'm sensitive to that. So I think if we start getting maybe a little too specific in discussion, I think in all fairness it's reasonable for someone to say, hey, you know, you asked for some reasoning and I think you're going a little too far. I appreciate that.

And then the how. How do we implement these changes? I liked the reference when we were talking about the apprentice programs and there was -- I think it might have been you, Mike, you commented, or someone commented about, you know, the like similar construction, going to journey level so many hours.

So if you provide examples to other programs that are in place, that's really helpful, too, because we as staff can look at those and see other successful programs that are working as examples. So contact information. You can call us. You can email us.

Courtney Ward was in here earlier. She is working really specifically on developing HERS whole house issues. That will be coming later this summer. We're actually going to have a public notice out shortly about some of the HERS, too, subject matters. That's a separate document, but that'll be coming out.
So for those of you interested in whole house, stay tuned. And then these are the links I spoke about. So I do have links in here to the Regs, the notices, the proceeding and then how to subscribe to the List-Serve. And just note, if you haven't subscribed to List-Serve yet and you do go to subscribe, you have to actually confirm, do like a reply back thing that it asks you to do, because otherwise, you won't be subscribed.

So that's it and we're early, and if there's anymore comments I would -- can you open the phone lines and mute caller 10 and caller 12, and I can ask if there's any comments on the phone, please. Perfect. Okay.

On the phone, we're getting ready to close. Did you have any questions or comments you'd like to make.

MR. CHARLES: I'm good.

MS. MacDONALD: All right. Thank you. Well, I'd like to -- you can mute it, then. Thank you, Tav. And saying that, I'd like to thank you for listening all day remotely. And I have George at the podium.

MR. NESBITT: George Nesbitt. Just one thing. The -- I have to go back through the Title 20 word for word, but I suspect there's very little we need to
change there. And I think Tav mentioned earlier, the thing is in Title 20, changing things is a lot harder.

And if the intent is fairly clear but there's not an overly precise level of detail and then we create, essentially, like the Residential Manual, we create a manual for the HERS System that can change and has the details and explains, you know, more details, what is or isn't a conflict of interest, whatever needs to be, and those are things that's published, it's consistent.

It's open to everyone. People can comment on it and it can change, if needed.

MS. MacDONALD: Yeah. We have to be -- sorry to interrupt.

MR. NESBITT: So.

MS. MacDONALD: So on the discussion of some type of Guidance Manual, I think everybody would like or is kind of open to that, because it could be a living document. And when we referenced that I referenced specifically the actual, similar to how our Building Standards has their Compliance Manuals, that was the whole thought.

Now, we have to be careful on our end because we're separate than the Building Standards. We're under Title 20. And so we have to be really careful and do --
what we put out there as guidance; that is, we all agree
this is a good idea.

We all agree that we're going to follow these
processes and/or possibly change them, but we also have
to acknowledge that these are not adopted Regulations.

MR. NESBITT: Right.

MS. MacDONALD: So they're like best
practices. So does -- you know -- those are the things
we have to think about. We also have to be careful in
making such a document, and I'm speaking as an Agency
saying this, just publicly as to how we explore and
think about these processes.

I personally like the idea because it can
change. It's living and breathing. As the industry
changes we can make these changes without having to go
through a full, you know, rule-making. But we do, we
have to be careful and tread carefully going down this
road of having such a manual or guidelines or frequently
asked questions, but having them really available. We
have to be careful that we don't make underground
regulations.

MR. NESBITT: Well, yeah, and not contradict
what --

MS. MacDONALD: Yes.

MR. NESBITT: -- the code actually says.
MS. MacDONALD: Yes.

MR. NESBITT: And then change it somewhere else. But I think even the Residential and the Nonres Manuals, they're approved by the Commission, but staff has a lot more authority and it's easier to go and to change something and to approve it, as opposed to a fully regulatory process.

MS. MacDONALD: Right. Right.

MR. NESBITT: And I think that's the different [sic]. I mean, it just, the more it's out there, it's clear, it's consistent and it's available so that, you know, it's not a different rule for this Provider and that Provider, or this Rater or that, and that way, if people have a question they can go to it, or that they don't get a different answer every time.

MS. MacDONALD: Right.

MR. NESBITT: So I mean, it needs to exist in some form of document.

MS. MacDONALD: Be updated with erratas, yeah. I agree. So thank you for everyone coming. I appreciate your attendance all day and look forward to future discussions specific to QA. And any other topics that we missed or didn't touch base on, please feel free to re-up them again in the comments.

I think I felt pretty good about what we
covered and the discussion that we had, based on the comments received. And I do believe that a full day dedicated to QA is really needed. And then you know, we might have another day after that to build on other issues that may be identified.

But we'll decide that going forward and keep moving forward, and I appreciate you being here because that just keeps us moving in the right direction, your involvement. So thank you.

(Whereupon at 3:37 p.m., the Workshop was adjourned.)
REPORTER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of June, 2015.

[Signature]

Kent Odell
CER**00548
TRANSCRIBER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of June, 2015.

____________________________
Elizabeth Reid-Grigsby
Certified Transcriber
AAERT No. CET**D-145