

**DOCKETED**

<b>Docket Number:</b>	24-BSTD-01
<b>Project Title:</b>	2025 Energy Code Rulemaking
<b>TN #:</b>	255778
<b>Document Title:</b>	CalCERTS Comments 45day First Set
<b>Description:</b>	N/A
<b>Filer:</b>	Meagan McFadden
<b>Organization:</b>	CalCERTS, Inc.
<b>Submitter Role:</b>	Applicant
<b>Submission Date:</b>	4/18/2024 9:40:35 AM
<b>Docketed Date:</b>	4/18/2024



April 17, 2024

Via CEC Docket 24-BSTD-01

Mr. Drew Bohan  
Executive Director  
California Energy Commission  
1516 Ninth Street, MS-39  
Sacramento, CA 95814  
[Drew.bohan@energy.ca.gov](mailto:Drew.bohan@energy.ca.gov)

**RE: CalCERTS First Set of Comments on 45-Day Language for 2025 BEES**

CalCERTS resubmits comments previously docketed under the Express Terms docket, 22-BSTD-01, submitted at TN# 253604. These comments were initially submitted following an informal meeting with CEC Staff on 12/22/2023 to discuss concerns with the Express Terms. CEC Staff identified that the changes could not be incorporated into the 45-day language since the language had already been submitted for review; but, would review for changes at the 45-day language stage. **See attached filing.**

In addition to comments submitted on **Shadow Audits** and **Data Retention**, CalCERTS requests a language change to the **Challenge Exam** requirement in 10-103.3(d)(1)(B). This change is requested to help better reflect the application and intent of Challenge Exams. Most Challenge Exams are requested by Raters who are currently working as active, certified, and reviewed HERS Raters who received work housed in a HERS Registry that is not their usual Registry. The requests for Challenge Exams are usually time-sensitive. It makes sense for the HERS Provider to subject a HERS Rater to a competency exam to ensure the Provider wants to take responsibility for that Rater; however, the requirements for the Challenge Exam as written are too restrictive. There is no benefit to mandating an “in person” exam, which would require travel costs and time/resource costs, with no apparent benefit. A live proctored exam or software proctored exam is sufficient and matches the criteria for the initial certification exam. The Challenge Exam should not be more restrictive than the base certification requirements, the requirement to be in person should be removed. (See suggested redline below)

**(B) Challenge Test.** An ECC-Provider may also offer challenge testing that evaluates competence in all subjects specified in Section 10-103.3(d)1Ai and Section 10-103.3(d)1Aii. If a challenge test is used it must comply with the following requirements:

- i. Only an ECC-Rater with a current and valid certification shall be eligible to sit for a challenge test. ECC-Raters with a suspended certification are not eligible.
- ii. The challenge test shall include a written test to be taken ~~in~~ **person** using a live proctor.
- iii. The challenge test shall include no less than 100 and no more than 1,000 questions prepared by the ECC-Provider.
- iv. The challenge test shall comply with all requirements in Section 10-103.3(d)1Avi.

Thank you for your consideration.

The CalCERTS Team

Enclosures



(916) 985-3400



[www.calcerts.com](http://www.calcerts.com)



[support@calcerts.com](mailto:support@calcerts.com)



31 Natoma, Suite 120  
Folsom, CA 95630

**DOCKETED**

<b>Docket Number:</b>	22-BSTD-01
<b>Project Title:</b>	2025 Energy Code Pre-Rulemaking
<b>TN #:</b>	253604
<b>Document Title:</b>	CalCERTS Comments on Express Terms - Shadow Audit and Data Requirements
<b>Description:</b>	N/A
<b>Filer:</b>	Jennifer Brazell
<b>Organization:</b>	CalCERTS, Inc.
<b>Submitter Role:</b>	Public
<b>Submission Date:</b>	12/13/2023 3:41:07 PM
<b>Docketed Date:</b>	12/13/2023



December 13, 2023

Via CEC Docket 22-BSTD-01

Mr. Drew Bohan  
Executive Director  
California Energy Commission  
1516 Ninth Street, MS-39  
Sacramento, CA 95814  
[Drew.bohan@energy.ca.gov](mailto:Drew.bohan@energy.ca.gov)

**RE: CalCERTS Comments on Express Terms – Shadow Audit and Data Requirements**

Below are CalCERTS redline suggestions for the shadow audit and data requirements.

The CalCERTS Team



(916) 985-3400



[www.calcerts.com](http://www.calcerts.com)



[support@calcerts.com](mailto:support@calcerts.com)



31 Natoma, Suite 120  
Folsom, CA 95630

- ii. **Shadow Audits.** A shadow audit requires the ECC-Provider to audit the ECC-Rater as they perform a Quality Insulation Installation field verification (Building Energy Efficiency Standards Reference Appendix RA3.5). The ECC-Provider's auditor shall observe and may not aid the ECC-Rater during the shadow audit. All ECC-Raters shall receive a shadow audit for QII once per year. For Verified ECC-Raters the shadow audit frequency shall be reduced from once per year to once per Triennial Code Cycle. A shadow audit shall also be performed if requested by the Commission or at the discretion of the ECC-Provider. Shadow audits shall comply with the following:
- a. The ECC-Rater shall be informed of the shadow audit for scheduling purposes on the day of the audit and the ECC-Provider's auditor will explain their presence to the homeowner. The homeowner may grant entry to the auditor. If entry is refused, the ECC-Provider shall reschedule the shadow audit.
  - b. For newly constructed buildings, the developer or contractor shall not refuse a shadow auditor if sampling is being used on the development. If the auditor is refused entry, the data registry will not accept sample-based compliance documents from the developer, contractor, or ECC-Rater regarding the project.
  - c. Shadow audits are limited to QII verifications where the ECC-Rater shall make the necessary observations and record results.
  - d. The ECC-Provider's auditor shall use the shadow audit check list provided in the Building Energy Efficiency Standards Reference Appendix RA3.5.
  - e. The shadow audit results shall be documented by the ECC-Provider, provided to the ECC-Rater and ECC-Rater Company, and recorded in the ECC-Provider's quality assurance database (Section 10-103.3(d)9B).
  - f. If the shadow audit reveals the ECC-Rater did not accurately perform the QII test or accurately collect or report data, the ECC-Provider shall initiate disciplinary action (Section 10-103.3(d)7).

**Commented [CC1]:** This edit allows the ECC-Providers to adjust to the costs and scheduling demands of this new requirement. In the next code cycle with feedback from the Raters and Providers, the Commission can put in the restrictions of same day limitations or something more restrictive.

10. Data Retention.

- A. An ECC-Provider shall maintain all information in the original format in which it collects, receives, or records the data for a minimum of ten years.
- B. ECC-Providers shall maintain a system that allows the Commission to readily search and query compliance documents, quality assurance data, ECC-Rater and ECC-Rater Company information collected as ECC-Provider Responsibilities, 10-103.3(d)., ~~search, index, process, or otherwise interact with that data~~ The Commission shall be able to search and query the information stored on the ECC-Provider's ~~system in~~ system in a way that is not substantially limited compared to the ability of the ~~ECC-Provider~~ ECC-Provider. ~~to query, search, index, process, or otherwise interact with that data.~~
- C. ECC-Providers may not restrict or degrade the Commission's ability to query, access, sort, or filter this information in any way different than the ECC-Provider.
- D. ECC-Providers shall maintain digital copies of all files that can be indexed and searched with reasonable search parameters within a calendar year or designated code cycle. It is the responsibility of ECC-Providers to maintain the necessary systems to support these functions, unless the Commission or Executive Director explicitly authorizes the ECC-Provider, in writing, to operate without this functionality or process.
- E. Nothing in this subsection shall be construed as requiring an ECC-Provider to process, re-package, or otherwise modify any historical information collected prior to January 1, 2026.

**Commented [CC2]:** This edit specifies that the data is relative to the ECC program and that the Commission needs the same registry tools and capabilities as the ECC-Providers in their systems.

**Commented [CC3]:** Large search queries, or search queries with multiple parameters can break a registry. There must be limits in this language, otherwise as written it is cost prohibitive. This is written as though the Commission should be allowed to search all compliance documents for 2025 forward with no limits. That may be possible for the first code cycle but this language is not sustainable going forward and should not be adopted as written.

11. Responses to Commission Requests for Data.

- A. At any time, the Executive Director may request access to or a digital copy of one or more registered compliance documents, associated Compliance Registration Packages, and quality assurance records that an ECC-Provider is required to maintain pursuant to Section 10-103.3(d)9 and the Building Energy Efficiency Standards, Reference Joint Appendix JA7. ~~Requests for data shall be limited to information needed to confirm compliance with and/or assess the 10-103.3 Energy Code Compliance Program.~~
- B. Failure to provide the requested information or access to the Executive Director within 30 days of a request issued pursuant to Section 10-103.3(d)12A is a violation of these regulations unless the Executive Director specifies additional time to comply with the request. The ECC-Provider may request an extension up to 60 days if the Executive Director's initial request does not specify a compliance deadline, or that deadline is less than 60 days.
- C. ECC-Providers have the sole responsibility to ensure that their systems can comply with the data request provisions of this subsection, including providing the Commission with reasonable access to any and all compliance documents, including Compliance Registration Packages, submitted within the past 10 years.

**Commented [CC4]:** This language addresses the CEC's intent to request data for compliance purposes and/or to assess the standards. The ECC- Providers should not be required to provide data for any other purpose or to any other third-party entities working for the Commission.