

<b>DOCKETED</b>	
<b>Docket Number:</b>	24-BSTD-01
<b>Project Title:</b>	2025 Energy Code Rulemaking
<b>TN #:</b>	258642
<b>Document Title:</b>	Excerpt of Pre-Rulemaking Draft 2025 Energy Code Express Terms – Section 10-1033
<b>Description:</b>	Staff is docketing two documents containing relevant portions of (1) Revised Draft Staff Report - 2025 Update of the Field Verification and Diagnostic Testing Requirements dated May 24, 2023, note that draft regulations are located in Appendix B, (Docket 22-BSTD-03 TN #: 250297), and (2) Draft 2025 Energy Code Express Terms dated November 3, 2023 (Docket 22-BSTD-01 TN#: 252915). Both documents were evaluated during pre-rulemaking activities and demonstrate that staff intended to remove procedures regarding Non-QII Shadow Audits (but leaving QII audits) in Section 10-103.3(d)5Cii and to remove In-lab Audit procedures in Section 10-103.3(d)5Ciii. The references to these removed procedures in Section 10-103.3(d)5B were inadvertently left in the 45-Day Express Terms.
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<b>Submitter Role:</b>	Commission Staff
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(f) **Amendment Process.**

The ATTCP may amend a submitted or approved application, as follows:

1. **Amendment Scope.**

- A. **Nonsubstantive Changes.** A nonsubstantive change is a change that does not substantively alter the requirements of the application materials for the ATTCP, ATT, or ATE. For amendments making only nonsubstantive changes, the ATTCP shall submit the following:
- i. a letter describing the change to the Energy Commission as an addendum to the application;
  - ii. A replacement copy of the affected sections of the ATTCP application with the changes incorporated; and
  - iii. A copy of the affected sections of the ATTCP application showing the changes in underline and strikeout format.
- B. **Substantive Changes.** A substantive change is a change that substantively alters the requirements of the application materials for the ATTCP, ATT, or ATE. For amendments making any substantive changes, the ATTCP shall submit the following:
- i. A document describing the scope of the change to the application, the reason for the change and the potential impact to the ATTCP, ATT, and ATE as an addendum to the application;
  - ii. A replacement copy of the affected sections of the ATTCP application with the changes incorporated; and
  - iii. A copy of the affected sections of the ATTCP application showing the changes in underline and strikeout format.

2. **Amendment Review.** Amendments submitted prior to approval of an ATTCP application shall be included in the application's Application Review and Determination process specified in Section 10-103.2(e).

Amendments submitted after approval of an ATTCP's application that contain only nonsubstantive changes shall be reviewed by the Executive Director for consistency with Section 10-103.2. Amendments determined to be consistent with this Section shall be incorporated into the approval as errata.

Amendments submitted after approval of an ATTCP's application that contain any substantive changes shall be subject to the Application Review and Determination process specified in Section 10-103.2(e). If the Energy Commission finds that the amended application does not meet the requirements of Section 10-103.2, then the ATTCP shall either abide by the terms of their previously approved application or have their approval suspended.

(g) **Review by the Energy Commission.**

If the Energy Commission determines there is a violation of these regulations or that an ATTCP is no longer providing adequate certification services, the Energy Commission may revoke the authorization of the ATTCP pursuant to Section 1230 et. seq. of Title 20 of the California Code of Regulations.

**NOTE:** Authority: Sections 25402, 25402.1, 25213, Public Resources Code. Reference: Sections 25007, 25008, 25218.5, 25310, 25402, 25402.1, 25402.4, 25402.5, 25402.8 and 25943, Public Resources Code.

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### **10-103.3 Administrative Procedures for the Energy Code Compliance Program**

- (a) **Scope.** The requirements in this section apply to ECC-Providers, ECC-Raters, and ECC-Rater Companies performing work relating to field verification and diagnostic testing for the Energy Code Compliance (ECC) Program. The ECC Program is intended to verify that the newly constructed buildings and additions and

alterations to existing buildings comply with the requirements of the Building Energy Efficiency Standards in order to protect consumers from poor construction and installations.

(b) **General Provisions.**

1. **Conflicts of Interest.**

A. **Prohibition of Conflicts of Interest.**

- i. ECC-Providers shall be independent from, and have no financial interest in, ECC-Rater Companies or ECC-Raters.
- ii. ECC-Providers, ECC-Raters, and ECC-Rater Companies shall be independent from, and have no financial interest in, the builder, designer, or subcontractor installer of energy efficiency installations field verified or diagnostically tested.
- iii. For the purposes of this subdivision, a “financial interest” includes:
  - a. a business entity in which the entity or individual has a direct or indirect investment worth \$2,000 or more, or in which the entity or individual is a director, officer, partner, trustee, or employee. However, this prohibition on investments does not include ownership of less than five percent of a publicly traded company.
  - b. an ownership interest, debt agreement, or employer/employee relationship.
- iv. ECC-Providers, ECC-Raters, and ECC-Rater Companies, or principals of an ECC-Provider or ECC-Rater Company shall not perform field verification or diagnostic tests services for builders, designers, or subcontractors owned or operated by close familial relatives. For purposes of this subdivision, “close familial relative” means a spouse, domestic partner, or cohabitation partner or a parent, grandparent (including greats), sibling, child, grandchild (including greats) of the individual or spouse, domestic partner, or cohabitation partner, and any person living in the same household.
- v. ECC-Raters and ECC-Rater Companies shall not perform any construction activity on a project site for which a construction permit is issued and for which they will or are reasonably expected to perform field verification or diagnostic testing services.
- vi. ECC-Raters or ECC-Rater Companies shall provide a report to the building or project owner for field verification or diagnostic testing services performed on the project site. The report may be provided through a contractor or other project representative to the building or project owner but must be a conspicuous and separate document from other documents provided by the contractor or project representative. The report must include all of the following elements:
  - a. The ECC-Rater’s or ECC-Rater Company’s name, logo (if any), contact information, and certification number.

- b. The ECC-Provider data registry link and registry numbers for all compliance documents registered by the ECC-Rater or ECC-Rater Company for the project.
  - c. An itemization of each field verification or diagnostic test, as well as any other services performed for the project, the amount charged, and the results in terms of pass or fail.
- vii. Prior to starting any field verification or diagnostic testing at a project site, the ECC-Rater or ECC-Rater Company must register a consent form, in which the owner consents to the ECC-Rater entering the relevant premises and performing the tests onsite. The consent form must include the owner's valid contact information, comprised of the owner's name, project address, phone number, and email. Failure to register a valid consent form will make the ECC-Rater or ECC-Rater Company subject to discipline as described in Sections 10-103.3(d)7 and 10-103.3(d)8. For projects with no current owner in residence, the owner's contact information may be that of the landlord, developer, builder, or any other such person with a real property interest.
- viii. Once an ECC-Rater has registered a failed field verification or diagnostic test, that ECC-Rater or ECC-Rater Company (or Independent Rater) shall become the ECC-Rater of Record (ROR) for the specific field verification or diagnostic test at the project site. If the ROR is an ECC-Rater Company or Independent Rater, then the ROR may be replaced by any ECC-Rater that is a fulltime employee of the ECC-Rater Company or Independent Rater and in good standing with the ECC-Provider. Except as provided in subdivision (a) below, only the ROR may register a subsequent passing field verification or diagnostic test previously registered as a failure.
  - a. Under any of the following circumstances, the ECC-Provider may release a project from the ROR but must verify that the retest for the failed field verification or diagnostic test is legitimate either through a site visit, photographic evidence (or other remote verification), or a desk audit (Section 10-103.3(d)5Civ) on the project:
    - (i) The ROR agrees to release the project.
    - (ii) The ROR is physically unable to continue work on the project due to injury, misfortune, or availability.
    - (iii) The ROR's certification has been suspended (Section 10-103.3(d)7C) or decertified (Section 10-103.3(d)7D).
    - (iv) The ROR is unwilling to continue work on the project.
  - b. The ECC-Provider shall lock the project compliance documentation within the data registry by address, permit number, or other reasonable means and shall not allow any further compliance documents to be registered for a failed test at the project site other

than from the ROR or allowable substitute under Section 10-103.3(b)1Aviiia.

c. An ECC-Provider shall not knowingly accept compliance documents for registration for a project that has an active failed field verification or diagnostic tests in any other ECC-Provider data registry.

(i) ECC-Providers shall submit a complaint to the Commission (Section 10-103.3(d)6B) upon suspected violation of this requirement.

(ii) Upon investigation, the Commission may take disciplinary action against an ECC-Provider (Section 10-103.3(d)15) if the CEC can demonstrate noncompliance or recommend disciplinary action against an ECC-Rater or ECC-Rater Company (Sections 10-103.3(d)7 and 10-103.3(d)8).

ix. **Use of Registered Certificates.** The use of registered certificates, including Certificates of Compliance, Certificates of Installation, and Certificates of Verification, is limited to the demonstration and documentation of the project compliance with the Building Energy Efficiency Standards. Other uses of registered certificates, such as for federal tax credits, is only permitted for projects that have been completed and are closed within the data registry.

B. **Conflicted Data.** The prohibitions on conflicts of interest specified in Section 10-103.3(b)1A apply to any data collected by an ECC-Rater. Any data collected by an ECC-Rater when they have a conflict of interest, regardless of its accuracy, shall be considered conflicted data. Any data collected through sampling procedures (Building Energy Efficiency Standards, Reference Appendix RA2.6) where the ECC-Provider is refused access to perform an onsite quality assurance audit (Section 10-103.3(d)5Ci) shall be considered conflicted data.

i. ECC-Providers shall not knowingly accept-, conflicted data on their systems. ECC-Providers may demonstrate that they have fulfilled this requirement by, for example:

a. Requiring ECC-Raters to affirmatively indicate, upon submitting any data to the ECC-Provider, that the data is not conflicted data, or that the ECC-Rater had a conflict of interest at the time the data was collected, but had express written approval from the Executive Director waiving the conflict.

b. Any other process approved by the CEC.

ii. ECC-Providers shall take all reasonable steps to detect, deter, isolate, and identify conflicted data in their systems, including in compliance documents and Compliance Registration Packages. ECC-Providers may demonstrate that they have taken all reasonable steps, for example:

a. Requiring ECC-Raters to complete training, prior to certification, regarding the requirements of Section 10-103.3(b)1A, including that it

- applies to data, or by some other reasonable method to deter conflicted data.
- b. Instituting a desk audit program that assesses data submitted to the ECC-Provider pursuant to Section 10-103.3(d)5Civ to confirm whether the submitting ECC-Rater had a disqualifying conflict of interest pursuant to Section 10-103.3(b)1A at the time of the data's submission, or by some other reasonable method to detect conflicted data.
  - c. Investigating and, as necessary, quarantining or marking conflicted data, or otherwise identifying that data as conflicted, including pursuant to Section 10-103.3(b)1Bvi.
  - d. Any other process approved by the CEC.
- iii. ECC-Providers may not use, rely on, sell, or offer for sale, any conflicted data for any purpose other than to detect, deter, isolate, and identify conflicted data from their systems, or to otherwise prevent the generation or transmission of conflicted data.
  - iv. ECC-Raters and ECC-Rater Companies may not submit any conflicted data without the express written approval of the Executive Director. ECC-Raters and ECC-Rater Companies may fulfill this requirement by for example,
    - a. Affirmatively indicating, upon submitting any data to the ECC-Provider, that the data is not conflicted data, or that the ECC-Rater or ECC-Rater Company had a conflict of interest at the time the data was collected, but had express written approval from the Executive Director excusing the conflict.
    - b. Any other process approved by the CEC.
  - v. Any ECC-Rater or ECC-Rater Company may apply to the Executive Director for express written approval excusing a conflict of interest under this section.
    - a. Such an application must include the following information: an explanation of the conflict of interest, the beginning and ending date of the conflict of interest (if any), and written justification providing compelling and persuasive evidence that (1) the conflict of interest will not result in inaccurate data, and (2) unnecessary hardship will result from the application of the prohibition on conflicted data in this instance.
    - b. The Executive Director may grant such written approval only if the Executive Director finds there is compelling and persuasive evidence of the factors identified in Section 10-103.3(b)1Bva.
    - c. Unsupported or general assertions of trustworthiness or accuracy are neither compelling nor persuasive evidence of the factors identified in Section 10-103.3(b)1Bva.

- d. The Executive Director may, at their discretion, request additional information, provide express written approval, provide conditional express written approval, or reject the request. If an applicant does not receive a reply within 120 calendar days, their request is denied.
- vi. Upon identifying data that may be conflicted, the ECC-Provider shall perform a desk audit to assess whether the data is in fact conflicted data, such as by contacting the submitting ECC-Rater or ECC-Rater Company and asking them to confirm, in writing, whether the data was conflicted or not. Upon discovery of a violation of the conflict-of-interest restrictions in Section 10-103.3(b)1A, the ECC-Provider shall use this gathered information to initiate disciplinary action against either –(or both of) the ECC-Rater (Section 10-103.3(d)7) and ECC-Rater Company (Section 10-103.3(d)8) responsible for the registered data in question.
- vii. ECC-Providers shall flag or otherwise mark verified conflicted data (Section 10-103.3(b)1Bvi) in the data registry and inform all of the following of the identification of the data and what field verification and diagnostic tests reliant on the data are invalidated: the homeowner, ECC-Rater, ECC-Rater Company, authority having jurisdiction over the issued construction permit, and the Commission.

2. **Prohibition on False, Inaccurate, or Incomplete Information**

- A. ECC-Providers shall not knowingly accept, store, or disseminate untrue, inaccurate, or incomplete information or information received through actions not conducted in compliance with these regulations, including information related to field verification and diagnostic testing information, field verification and diagnostic test results, or results on a certificate of compliance or certificate of installation documents.
- B. ECC-Providers shall not accept payment or other consideration in exchange for use of their data registry to report a field verification and diagnostic test result that was knowingly conducted and reported out compliance with these regulations.
- C. Only the ECC-Rater who performs a field verification and diagnostic test shall have signatory authority for all certificates of verification related to the field verification and diagnostic test.
  - i. ECC-Raters shall not use technicians that are not certified ECC-Raters to perform field verification and diagnostic testing unless said technicians are directly supervised by the ECC-Rater in person on the project site.
  - ii. No other person shall sign the certificates of verification other than the ECC-Rater that preformed or directly supervised technicians that performed the field verification and diagnostic test.

(c) **ECC-Provider Approval**

- 1. **Approval Process.** Approval as an ECC-Provider is limited to a single Triennial Code Cycle. To become an ECC-Provider, an applicant shall submit a Full Application. To continue as an ECC-Provider for a subsequent Triennial Code Cycle, a current ECC-Provider shall submit a Triennial Reapproval Application. Applications will be considered pursuant to the procedures in Section 10-

110. A Full Application or a Triennial Reapproval Application may be updated as set forth in Section 10-103.3(c)6. An approved ECC-Provider may make modifications to its application as set forth in Section 10-103.3(c)7. Upon a first-time approval of an ECC-Provider, the Energy Commission shall assign the ECC-Provider a three-digit identification number.
2. **Confidential Information.** An applicant may identify any information in its application the applicant considers confidential and request from the Commission a confidential designation as specified in Title 20, California Code of Regulations, Section 2505. If an applicant requests a designation of confidential information, the applicant shall also submit a non-confidential summary of its application.
  3. **Full Application.** The Commission may approve a full application to become an ECC-Provider if the application includes each of the following:
    - A. **Evidence of Ability to Satisfy ECC-Provider Requirements.** Information sufficient to demonstrate, by a preponderance of the evidence, that the applicant can and will satisfy each regulatory requirement specified as the ECC-Provider Approval Process in Section 10-103.3(c)1 for the duration of their tenure as an ECC-Provider.
      - i. **Methods of Producing Evidence.** An applicant may evidence its ability to satisfy the ECC-Provider Requirements by providing a written strategy for how it intends to satisfy each requirement, citing examples of how it has been able to satisfy each regulatory requirement, or by any other means of introducing evidence into the record acceptable to the Executive Director or Commission.
      - ii. **Disputed Evidence.** Any interested party may introduce evidence demonstrating that an applicant either cannot satisfy, or in the past has failed to satisfy, one or more regulatory requirements specified in Section 10-103.3(c)1.
    - B. The full legal name of the applicant is registered with the California Secretary of State.
    - C. The full legal name, date of birth, current residential address, and social security number of every individual with an ownership interest in and principal of the ECC-Provider applicant.
    - D. A complete list of any entities that have business relationships with the applicant such as parent companies, subsidiaries, affiliates, and/or any past names under which the entity has conducted business as an ECC-Provider, if applicable.
    - E. The Triennial Code Cycle for which the applicant intends to operate as an ECC-Provider.
    - F. The contact information for one or more Designated Contacts who the Commission can contact as needed.
    - G. Any other information relating to the applicant's ability to satisfy each regulatory requirement specified in Section 10-103.3(c)1 or specifically requested by the Executive Director or Commission.
  4. **Triennial Reapproval Application.** The Commission may approve an existing ECC-Provider's application to continue as an ECC-Provider for a subsequent Triennial Code Cycle if the application includes each of the following:

- A. The original Full Application for the previous cycle, any Updated Applications, including Conditions of Approval, and any Post-Approval Amendments that were submitted and/or approved.
  - B. All previously submitted and approved Triennial Reapproval, if any.
  - C. Information demonstrating that the applicant can and will satisfy each regulatory requirement not otherwise addressed in any previously approved Application, subject to the same evidentiary constraints and requirements as a Full Application.
  - D. Alternatively, an existing ECC-Provider may submit a full Application for the Triennial Code Cycle.
5. **Application for Remediation.**
- A. An ECC-Provider that has been decertified may submit one Application for Remediation pursuant to Section 10-110 during the Triennial Code Cycle in which it was decertified.
  - B. An Application for Remediation shall include:
    - i. The original Full Application, all previously submitted and approved Triennial Reapprovals, any Updated Applications, including Conditions of Certification, and any Post-Approval Amendments that were submitted and/or approved.
    - ii. All correspondence concerning progressive discipline between the ECC-Provider and the Commission commencing with the notice of potential violation for each violation that led to rescinding approval.
    - iii. A Remediation Report and Plan explaining why each violation leading to a rescinded approval occurred and the steps that the ECC-Provider has taken to remedy past violations and prevent future violations similar to those that led to its rescinded approval.
    - iv. A draft Full Application that incorporates all necessary modifications to address the issues described in the Remediation Report and Plan.
  - C. **Basis for Approval.** The Commission may approve an Application for Remediation if the Commission finds:
    - i. The decertified ECC-Provider has demonstrated a good faith willingness to take feasible steps towards remediation.
    - ii. The decertified ECC-Provider has presented a remediation plan that can remedy past violations and prevent future violations similar to those that led to its rescinded approval.
    - iii. The decertified ECC-Provider has demonstrated the ability to adequately implement the remediation plan.
  - D. **Upon Approval.** If the decertified ECC-Provider's Application for Remediation is approved by the Commission, the decertified ECC-Provider is eligible to submit a Full Application.
  - E. **Upon Rejection.** If a decertified ECC-Provider's Application for Remediation is rejected by the Commission, the ECC-Provider may re-submit an Application for Remediation only with the written approval of the Executive Director or Commission.

6. **Updated Application.**
- A. **Update with Executive Director’s Approval.** With the written permission of the Executive Director, at any point during the Section 10-110 process, an applicant may submit an updated application, which shall be identified as an Updated Application and made available to interested parties for review and comment for at least 30 days prior to consideration by the Commission at a business meeting.
  - B. **Update at Commission Direction, Conditions of Approval.** The Executive Director or Commission may direct an applicant to update their application in order to address any issues or concerns raised by any interested party with respect to the applicant’s ability to completely fulfil the role of ECC-Provider, including by imposing Conditions of Approval.
  - C. **Applicant Withdrawal and Re-submission.** Applicants who have submitted an application may withdraw their application at any time before approval, and may submit a new application pursuant to this section and Section 10-110.
7. **Post-Approval Amendments.** An approved ECC-Provider shall submit a Post-Approval Amendment to the Executive Director when the ECC-Provider wishes to make a modification to their approved application or, as a result of any circumstances other than the transition to a new Triennial Code Cycle or progressive discipline pursuant to Section 10-103.3(c)3, or the application no longer accurately reflects the ECC-Provider’s operations.
- A. **Process.** The ECC-Provider may submit a Post-Approval Amendment as either substantive or non-substantive. The Executive Director may determine whether a post-approval amendment is substantive or non-substantive.
  - B. **Substantive.** If the Executive Director determines that a post-approval amendment is substantive, the amendment shall follow the process specified by section 10-110 and be approved by the Commission. Substantive changes include any changes to training, certification, or oversight (including quality assurance) that would result in any impact to consumers, FV&DT Raters, FV&DT Rater Companies, or the ability of the ECC-Provider to comply with any requirement of Section 10-103.3(c)1.
  - C. **Nonsubstantive.** If the Executive Director determines that a post-approval amendment is nonsubstantive, they may approve the amendment by informing the ECC-Provider’s Designated Contact and posting the proposed post-approval amendment application. Non-substantive updates are any change that is not considered a substantive update, including correcting typographical errors, modifying contact information, renaming positions or programs, and making changes that do not impact consumers, ECC-Raters, ECC-Rater Companies, or alter the ability of the ECC-Provider to comply with any requirement of Section 10-103.3(c)1.
8. **Conditions of Approval.** As a prerequisite of approval of any ECC-Provider application, the Commission may impose Conditions of Approval as the Commission deems necessary to ensure that the applicant can meet the requirements of Section 10-103.3(c)1 if approved. If the Commission imposes Conditions of Approval, the Commission may require the applicant to demonstrate that the applicant will satisfy each Condition of Approval prior to approval. Violating a Condition of Approval imposed by the Commission shall constitute a violation of these regulations and may result in disciplinary action, up to and including rescinding of approval.

9. **Executive Director Rejection of Decertified ECC-Provider's Application.**

- A. The Executive Director may reject any application if the Executive Director determines the applicant is an ECC-Provider that has previously been decertified, or is a successor, subsidiary, or otherwise affiliated or substantially similar organization to an ECC-Provider that has previously been decertified, and that has not completed the Application for Remediation process pursuant to Section 10-103.3(c)5.
- B. An applicant may appeal the Executive Director's decision to reject its application to the full Commission pursuant to Section 10-103.3(h). The applicant shall establish that it is not a decertified ECC-Provider, successor, subsidiary, or otherwise affiliated or similar organization to a decertified ECC-Provider.
- C. **Minimum Evidentiary Requirements.** At a minimum, an appeal from rejection shall demonstrate that the applicant and decertified ECC-Provider have dissimilar and unrelated owners, shareholders (if applicable), executive management, employees, physical assets, intangible assets, intellectual property, business practices, registered organization names, branding, marketing materials, and trademarks.
- D. **Final Agency Action.** If the Commission determines that the applicant has failed to demonstrate it is not a decertified ECC-Provider, or any successor, subsidiary, or otherwise affiliated or substantially similar organization to a decertified ECC-Provider, the Commission may deem the applicant a decertified ECC-Provider ineligible to apply until the applicant has completed remediation or specify when the applicant may re-submit an application. The period of time before re-submittal may not exceed three years from when the appeal was submitted.

(d) **ECC-Provider Responsibilities**

- 1. **ECC-Rater Training.** For each Triennial Code Cycle, ECC-Providers shall provide training to existing ECC-Raters and new ECC-Rater applicants. The ECC-Provider may also provide this training for prior Triennial Code Cycles. To fulfill the training requirements (Section 10-103.3(d)), an ECC-Provider shall confirm that an ECC-Rater applicant has completed a training curriculum that covers all information necessary to perform all FV&DTs in accordance with the applicable Building Energy Efficiency Standards and passed all associated tests. Alternatively, if offered by the ECC-Provider, an existing ECC-Rater may apply for approval without completing an ECC-Provider's training curriculum by passing a challenge test, which is a comprehensive test of advanced FV&DT technical knowledge that verifies the ECC-Rater applicant has sufficient knowledge necessary to perform FV&DT in accordance with the applicable Building Energy Efficiency Standards. The Commission shall approve all training materials under the full training curriculum and challenge test as part of the ECC-Provider's application (Section 10-103.3(b)).
  - A. **Training and testing curriculum.** An ECC-Provider's training curriculum for ECC-Rater applicants must include the following:
    - i. **Building Energy Efficiency Standards mandatory subject areas.** The training curriculum shall instruct ECC-Raters how to perform FV&DT as set forth in the following Building Energy Efficiency Standards, Reference Appendices:
      - a. RA1: Alternative Residential Field Verification and Diagnostic Test Protocols

- b. RA2: Residential Verification, Testing, and Documentation Procedures
  - c. RA3: Residential Field Verification and Diagnostic Test Protocols
  - d. RA4: Eligibility Criteria for Energy Efficiency Measures
  - e. NA1: Nonresidential Verification, Testing, and Documentation Procedures
  - f. NA2: Nonresidential Field Verification and Diagnostic Test Procedures
- ii. **Other mandatory subject areas.** The training curriculum shall inform ECC-Rater applicants about:
- a. The roles and responsibilities of all entities regulated by Section 10-103.3 and in the Building Energy Efficiency Standards, Reference Appendices RA1, RA2, RA3, RA4, NA1, NA2, and JA7.
  - b. Energy Code nomenclature that designates building types, dwelling units, systems, and compliance methods.
  - c. Basic building science concepts, including:
    - (i) Principles of heat transfer.
    - (ii) Energy conservation features.
    - (iii) Framing, fenestration, insulation, and other built or installed features.
    - (iv) Energy consuming appliances.
    - (v) Types of space conditioning and ventilating systems.
    - (vi) Types of water heating systems.
    - (vii) Categories of lighting systems and lighting controls.
    - (viii) Energy generating and storage systems.
    - (ix) Energy efficiency effects of building characteristics.
  - d. Worksite safety.
    - (i) Personal protective equipment and appropriate dress.
    - (ii) Communication with site management personnel.
    - (iii) Awareness of site hazards (including asbestos, fall risks, lifted loads, confined spaces, vehicles, powered equipment and tools, pressurized vessels and pipes, electrical terminals and fixtures, etc.), occupants in the dwelling unit, and escape routes.
    - (iv) Site security.
    - (v) Other practices, not limited to those relevant to home energy testing and verification procedures and equipment.
  - e. Instrumentation.

- (i) Diagnostic devices used in the measurement of, but not limited to duct leakage testing, dwelling unit leakage (blower doors), system air flow and pressure, and refrigerant pressure and temperature.
  - (ii) Accuracy and tolerance.
  - (iii) Calibration requirements.
- f. Equipment certification.
  - (i) Overview of manufacturer-certified equipment ratings.
  - (ii) When and why certification applies for verification.
  - (iii) Where to find specified certifications and ratings.
- g. Compliance document and registration.
  - (i) Building Energy Efficiency Standards regulations, associated testing protocols, and the corresponding forms for data entry.
  - (ii) Documentation workflow and data input.
  - (iii) Form logic and validation.
  - (iv) Group sampling.
- h. Professionalism and conduct when working with various trades, owners, and other site personnel.
- i. Resources available on the Commission website related to the Building Energy Efficiency Standards.
- j. Progressive discipline of ECC-Raters (Section 10-103.3(d)7) and the appeal process (Section 10-103.3(h)).
- k. Quality assurance process (Section 10-103.3(d)5).
- l. Conflict of interest requirements (Section 10-103.3(b)1).
- m. Prohibition on False, Inaccurate, or Incomplete Information (Section 10-103.3(b)2)
- iii. **Classroom Training.** Classroom training shall include an electronic or hardcopy manual for each student and comply with the following requirements:
  - a. Classroom training may be provided online or in person and may be taught by an in-person instructor, an online instructor or online proctoring software as provided in Section 10-103.3(d)1Aviii.
  - b. When administered online, the modules must be naturally paced, recorded, and played back no faster than 100 percent speed. Modules must require occasional student interaction not limited to brief quizzes to progress through topics and encourage engagement with the platform.
  - c. Classroom training may include pre-recorded video instructions but must not solely rely on pre-recorded videos.

- d. Classroom training may use mock tests or exams, but mock tests or exams may not be used to comply with the Tests and Exams requirements in Section 10-103.3(d)1Avi.
- iv. **Instructional Materials.**
  - a. The materials shall address all topics listed in Section 10-103.3(d)1Ai and Section 10-103.3(d)1Aii.
  - b. Materials that are presented in a slideshow format must be accompanied by a script or detailed outline that explains the narrative and the purpose of each visual.
  - c. Slide text and graphics must be legible.
  - d. Governmental logos must not appear on class materials (including course descriptions, web pages, slides, videos, handouts, and manuals) unless the department, office, or agency has given permission to do so, and then only if usage adheres to respective guidelines. The logo may appear without express permission on official publications whether distributed in whole or in part.
- v. **Laboratory Training.** Laboratory training shall cover all FV&DT procedures listed in Building Energy Efficiency Standards Reference Appendices RA1, RA2, RA3, RA4, NA1, and NA2 and comply with the following requirements:
  - a. All laboratory training facilities shall be designed to provide consistent and repeatable practical training exercises and be approved in advance by the Commission.
  - b. Laboratory training shall be conducted in a controlled space with appropriate safety measures such as proper ventilation, safe egress, appropriate lighting, and fire response systems. Laboratory training must not be conducted in an occupied residence.
  - c. All laboratory training shall be in person and be supervised by an instructor with no more than ten students to one instructor. Laboratory instruction shall include an electronic or hardcopy manual for each student.
  - d. Any equipment necessary to complete the laboratory training shall be available to students at a ratio of no greater than one test equipment per five students. Each student shall perform the laboratory training independently with full access to the necessary equipment.
- vi. **Written test.** An ECC-Rater applicant shall take a written test, offered by an ECC-Provider, to confirm the applicant's understanding of all mandatory training information specified in Section 10-103.3(d)1Ai and Section 10-103.3(d)1Aii. Tests shall only be used to verify the knowledge of ECC-Rater applicants and may not be used for training purposes. ECC-Providers shall retain all results for five years from the date of the test. The written test shall comply with all of the following:

- a. Be online using proctoring software (Section 10-103.3(d)1Avii) or in person using a live proctor.
  - b. Consist of between 10 and 100 questions per subject area specified in Sections 10-103.3(d)1Ai and 10-103.3(d)1Aii.
  - c. Require a passing score of no less than 70 percent.
  - d. Be approved by the Commission at the time of ECC-Provider application (Section 10-103.3(c)1).
- vii. **Practical test.** ECC-Rater applicants shall take a practical test offered by an ECC-Provider, to demonstrate competence in all subjects specified in Section 10-103.3(d)1Ai and Section 10-103.3(d)1Aii as they apply to the performance of FV&DT procedures. The ECC-Provider shall retain all results for five years from the date of the test. The practical test shall comply with the following:
- a. All practical tests shall be performed in any Commission approved facility as required by the Laboratory Training Requirements in Section 10-103.3(d)1Aiv.
  - b. All practical tests shall be in-person only using a live proctor with no more than five test takers to one proctor.
  - c. Any equipment required to complete the practical test shall be made available to each test taker. Test takers shall not work in teams to complete any portion of the practical test.
  - d. All practical tests shall be approved by the Commission by demonstration during the application process (Section 10-103.3(c)1).
- viii. **Proctoring Software.** Any proctoring software or learning management system that includes proctoring features, used for training and exams shall be approved in advance by the Commission and comply with the following:
- a. Proctoring software for training or exams must be time limited.
  - b. Proctoring software shall monitor the computer desktop, webcam video, and audio of the individual completing the training or exam. The proctoring software, including any interactions with a proctoring service, shall take reasonable steps to detect the use of prohibited outside resources on the exam, and return a failing grade if the use of prohibited outside resources are in fact detected.
- 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.
  - C. **Training and Testing for Subsequent Triennial Code Cycle Updates.** An ECC-Provider shall provide training to previously certified ECC-Raters on changes made during any Triennial Code Cycle update that would affect the performance of field verification and diagnostic testing, including changes that would trigger testing or in testing procedures. The Triennial Code Cycle Update training and testing shall comply with all Section 10-103.3(d)1A requirements. ECC-Providers may offer a challenge test in compliance with Section 10-103.3(d)1B. Laboratory training (Section 10-103.3(d)1Aiv) and practical testing (Section 10-103.3(d)1Avii) shall only be required if changes made during any Triennial Code Cycle include modifications or new diagnostic test procedures or field verifications.
- 2. **ECC-Rater Certification.**
  - A. **Certification Requirements.** Certification as an ECC-Rater is limited to a single Triennial Code Cycle. The ECC-Provider shall record each Triennial Code Cycle for which an individual ECC-Rater has been certified to provide field verification and diagnostic test services. For each Triennial Code Cycle, an ECC-Provider shall certify an eligible ECC-Rater applicant who meets the minimum requirements for an ECC-Rater, as verified by the ECC-Provider, and completes and passes all training requirements. Prior to certification, an ECC-Provider shall advise the ECC-Rater applicant on the required conduct for ECC-Raters in Section 10-103.3(e), the progressive discipline requirements Section 10-103.3(d)7, and the appeal process in Section 10-103.3(h).
  - B. **Certification Agreement.** Prior to certification, the ECC-Provider shall ensure that the applicant signs the ECC-Rater Agreement with the ECC-Provider, in which the ECC-Rater shall agree, at minimum, to comply with all applicable laws and regulations, including the requirements provided in Section 10-103.3, and shall maintain a copy of the signed agreement.
  - C. **Eligibility.** An ECC-Rater is eligible if they have not been prohibited from practicing by the Executive Director or Commission pursuant to Section 10-103.3(g)1.
  - D. The ECC-Provider shall maintain a list of all certified ECC-Raters with the following information:
    - i. First and last name
    - ii. Business Contact information
      - a. Phone
      - b. Address
      - c. Email
    - iii. Certification status, limited to Certified-Active, Verified-Active, notice of violation, Probation, Suspended, Decertified, Inactive.

3. **ECC-Rater Company Training.** For each Triennial Code Cycle, the ECC-Provider shall develop and maintain a course of training to summarize the responsibilities of the ECC-Rater Company in the performance of field verifications and diagnostic testing as prescribed in Section 10-103.3(d)3. The ECC-Rater Company training may not exceed eight (8) hours in duration. All training materials shall be approved by the Commission as part of the ECC-Provider’s application (Section 10-103.3(c)1). An ECC-Provider’s training curriculum for ECC-Rater Company applicants must, at minimum, include all of the following:
  - A. A summary of the Training curriculum for ECC-Rater applicants provided in Section 10-103.3(d)1.
  - B. Information regarding the following:
    - i. The roles and responsibilities of all entities regulated by Section 10-103.3 and in the Building Energy Efficiency Standards, Reference Appendices RA1, RA2, RA3, RA4, NA1, NA2, and JA7.
    - ii. Discipline procedure for ECC-Raters (Section 10-103.3(d)7) and ECC-Rater Companies (Section 10-103.3(d)8), and the appeal process (Section 10-103.3(h)).
    - iii. Quality assurance process (Section 10-103.3(d)5).
    - iv. Conflict of interest requirements (Section 10-103.3(b)1).
    - v. Prohibition on False, Inaccurate, or Incomplete Information (Section 10-103.3(b)2).
4. **ECC-Rater Company Certification**
  - A. **Certification Requirements.** An ECC-Provider shall certify an eligible ECC-Rater Company applicant that meets the minimum requirements for an ECC-Rater Company, as verified by the ECC-Provider, and completes and passes all training requirements. Prior to certification, an ECC-Provider shall advise the ECC-Rater Company applicant on the required conduct for ECC-Rater companies in Section 10-103.3(f)2, the discipline requirements Section 10-103.3(d)8 and the appeal process in Section 10-103.3(h).
  - B. **Certification Agreement.** The ECC-Rater Company applicant shall sign the ECC-Rater Company agreement with the ECC-Provider, in which the ECC-Rater Company shall agree, at minimum, to comply with all applicable laws and regulations, including the requirements provided in this Section 10-103.3.
  - C. **Public List.** ECC-Providers shall maintain a publicly available list of certified ECC-Rater Companies.
  - D. **Eligibility.** An ECC-Rater Company is eligible if it meets the minimum qualifications enumerated in Section 10-103.3(f)1B and has not been prohibited from practicing by the Executive Director or Commission pursuant to Section 10-103.3(g)2.
  - E. After its initial certification, an ECC-Rater Company does not need to complete the training curriculum again or be recertified for each Triennial Code Cycle, so long as it maintains its eligibility under Section 10-103.3(f)1B.

- F. The ECC-Provider shall maintain a list of all certified ECC-Raters Companies with the following information:
- i. First and last name of certified primary
  - ii. ECC-Rater Company Name
  - iii. Business Contact information
    - a. Phone
    - b. Address
    - c. Email
  - iv. Certification status, limited to Certified-Active, Verified-Active, notice of violation, Probation, Suspended, Decertified, Inactive.
5. **Quality Assurance.** An ECC-Provider shall maintain a quality assurance program to ensure appropriate oversight of the ECC-Raters it certifies. This program shall, at a minimum, include the following:
- A. **Quality Assurance Staff.** ECC-Providers shall maintain the necessary qualified staff to ensure a functioning quality assurance program that includes, at a minimum, performing the types of quality assurance reviews listed in Section 10-103.3(d)5 on ECC-Raters. Any form of audit is subject to the same standards of required conduct as any other field verifications and diagnostic tests and is also subject to Quality Assurance review. Quality Assurance staff may not include active ECC-Raters.
  - B. **Verified ECC-Rater.** An ECC-Rater is designated as a “Verified ECC-Rater” once the ECC-Rater has been (1) continuously certified as an ECC-Rater for a minimum of five years and (2) confirmed for designation by the applicable ECC-Provider after passing all required quality assurance audits within a 12-month period, including at least one annual quality insulation installation (QII) shadow audit, one non-QII shadow audit, one in-lab audit, and one desk audit.
    - i. The ECC-Provider shall immediately revoke this designation for any audit failure or the failure to be recertified as an ECC-Rater in any subsequent Triennial Code Cycle.
    - ii. This designation, once obtained, may be included in marketing materials. If this designation is revoked, it shall be removed from marketing materials within 10 business days.
  - C. **Types of Quality Assurance Review.** Quality Assurance Review shall take the form of onsite, shadow, laboratory, and desk audits.
    - i. **Onsite Audits.** The ECC-Provider performs an onsite audit following field verification and diagnostic testing by an ECC-Rater it certified. Onsite audits are performed at the invitation of the homeowner through the complaint process, at the request of the Commission, or at the discretion of the ECC-Provider. Every year, at least one onsite audit shall be performed by the ECC-Provider for each ECC-Rater it has certified either at random or as directed above. For Verified ECC-Raters the minimum onsite audit frequency shall be reduced from

once per year to once per Triennial Code Cycle. Additionally, onsite audits shall be performed for every seventh sample-group used in a single residential development. The audit results shall be included in the annual reporting to the Commission (Section 10-103.3(d)11E) or provided in response to a request by the Commission. Onsite audits shall comply with the following:

- a. Onsite audits must not be performed in the presence of the ECC-Rater and can be performed any time after the ECC-Rater has left the project site.
- b. ECC-Raters must not be informed that their field verification and diagnostic test is receiving an onsite audit until the onsite audit is complete and the results are documented.
- c. At a minimum, onsite audits shall include all of the following:
  - (i) A verification of correctly completed certificates of installation (if the ECC-Rater is signature authorized) and verification for the project.
  - (ii) Performance of the field verification and diagnostic test that was performed by the ECC-Rater.
- d. A Passing result shall include the following at a minimum:
  - (i) Correct and completed certificates of installation (if the ECC-Rater is signature authorized) and verification for the project free from false, inaccurate, or incomplete information.
  - (ii) All field verifications and diagnostic tests audit results that include a field test or measurement must pass as required in the Building Energy Efficiency Standards, Reference Appendices RA1, RA2, RA3, RA4, NA1, and NA2.
- e. Onsite audits shall be performed when an ECC-Provider is investigating a complaint from a homeowner about a field verification and diagnostic test.
- f. Onsite audits shall be performed for every seventh sample-group used in a single residential development.
  - (i) The ECC-Provider shall perform the onsite audit at an untested home in the same sample-group being tested and a tested home.
  - (ii) If the ECC-Provider is refused access to the development, all sample-groups for the development will be considered conflicted data (Section 10-103.3(b)1B).
- g. If the ECC-Provider is refused access to the development, the ECC-Rater may be subject to investigation and disciplinary action. The ECC-Provider shall document onsite audit results, provided to the ECC-Rater

- and ECC-Rater Company, provided to the homeowner, and recorded in the ECC-Provider's quality assurance database (Section 10-103.3(d)9B).
- h. If the onsite audit reveals the ECC-Rater did not accurately perform the field verification and diagnostic test or accurately collect or report data, the ECC-Provider shall initiate disciplinary action (Section 10-103.3(d)7).
  - i. Onsite audits shall include the use of photographic evidence to be recorded in the ECC-Provider data registry as provided in Building Energy Efficiency Standards Reference Appendix JA7.5.6.3.
- 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 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).
- iii. **Reserved**
- iv. **Desk Audits.** Desk audits consist of an ECC-Provider using registered compliance documents within an ECC-Provider data registry to evaluate an ECC-Rater's

Certificates of Compliance (Section 10-103(a)), Certificates of Installation (Section 10-103(b), and Certificates of Verification (Section 10-103(d)) for consistency and accuracy. ECC-Providers shall perform desk audits of all certified ECC-Raters at least once per year and as directed by the Commission or at the discretion of the ECC-Provider. For Verified ECC-Raters the Desk audit frequency shall be reduced from once per year to once per Triennial Code Cycle. Desk audits shall comply with the following:

- a. ECC-Providers shall develop and document a maximum variance for each data entry point for each field verification and diagnostic test.
- b. ECC-Providers shall identify a project to audit where the ECC-Rater provided field verification and diagnostic test services. The ECC-Provider shall collect all compliance documents associated with the project as necessary to audit the field verifications and diagnostic tests performed by the ECC-Rater at the project site and may contact outside authorities, such as the local building authority with jurisdiction over the project.
- c. The ECC-Provider shall confirm the measurements, calculations, and other information obtained during field verifications and diagnostic tests at the project are within expected tolerances.
- d. The ECC-Provider shall compare the field verification and diagnostic test results from the project site to no less than twenty other field verification and diagnostic test results performed by the same ECC-Rater on other project sites prior to the audited project. If the comparison suggests the subject project results could have been copied from prior project sites, the ECC-Provider shall investigate further to determine if results were falsified or otherwise inaccurate.
- e. The desk 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 desk audit shows that the ECC-Rater did not accurately perform the field verification and diagnostic test or accurately collect or report data, the ECC-Provider shall initiate disciplinary action (Section 10-103.3(d)7).

**D. Remedy for Flawed Field Verification and Diagnostic Tests**

- i. A flawed field verification and diagnostic test is any field verification and diagnostic test that is inconsistent with an audit, or that is otherwise determined by the Executive Director, the Commission, or the ECC-Provider, to be untrue or inaccurate.
- ii. The ECC-Provider is responsible for remedying any flawed field verification and diagnostic tests identified by audit or by any other means.

- iii. A flawed field verification and diagnostic test is remedied by providing an additional field verification and diagnostic test to the hiring party that corrects the untrue or inaccurate reporting.
    - iv. The ECC-Provider may seek reimbursement for the remedy from the ECC-Rater who performed the flawed field verification and diagnostic test.
  - E. **Payment of Fees; Proportionality.** As part of their contractual arrangements with ECC-Raters, ECC-Providers may charge a Quality Assurance fee. The entirety of any Quality Assurance fee may only be used by the ECC-Provider to fund Quality Assurance activities.
- 6. **Queries and Complaints**
  - A. **Public Queries and Complaints.** ECC-Providers shall have a system for receiving queries and complaints from consumers, ECC-Raters, ECC-Rater Companies, authorities having jurisdiction, and the general public. The ECC-Provider shall respond to, investigate, and resolve queries and complaints related to field verification and diagnostic testing in a timely manner. ECC-Providers shall ensure the ECC-Raters they certify inform recipients of field verifications and diagnostic testing services about the query and complaint system. ECC-Providers shall retain all records of queries and complaints, the corresponding investigation, and the response for a minimum of five years from receipt of the query or complaint. ECC-Providers shall annually report to the Commission a summary of all queries, complaints, and actions taken over the last 12 months. The Queries and Complaints Annual Summary shall include all of the following for each query or complaint received:
    - i. A tracking number identifying each query or complaint in the ECC-Provider queries and complaints tracking system.
    - ii. The name and contact phone or email of the person(s) submitting the query or complaint.
    - iii. A summary of the query or complaint.
    - iv. A summary of the results of the ECC-Provider investigation and related actions.
    - v. A summary of the resolution of the query or complaint.
  - B. **Commission-Initiated Queries and Complaints.** The Commission may direct an ECC-Provider to investigate any queries related to the performance of the FV&DT program. An ECC-Provider shall respond within 30 days of receiving a Commission direction to investigate a query.
  - C. **ECC-Rater and ECC-Rater Company-Initiated Queries and Complaints.** ECC-Providers shall have a system for ECC-Raters and ECC-Rater Companies to report potential violations of these regulations by ECC-Raters, ECC-Rater Companies, and ECC-Providers.
- 7. **ECC-Rater Discipline.** If an ECC-Rater violates these regulations, including but not limited to the failure to perform accurate and complete field verification and diagnostic tests, the ECC-Provider shall take the following disciplinary steps to address and correct the noncompliance. In the event of a severe violation, however, the ECC-Provider shall proceed immediately to the suspension step for the first severe violation and to the decertification step for a second severe violation. A severe violation of these regulations includes knowingly creating false field verification or

diagnostic testing documents, any violation involving criminal activity, coordinating or participating in an organized scheme to violate these regulations, or a demonstrated pattern of violating these regulations. The ECC-Provider and ECC-Rater may extend, by written agreement, the time for response, reply, and final determination for each step below. At any time, the Executive Director may direct an ECC-Provider to investigate an ECC-Rater or discipline an ECC-Rater pursuant to Section 10-103.3(d)7A through Section 10-103.3(d)7D.

- A. **Step 1: Notice of Violation.** Upon identification of one or more violations of these regulations by an ECC-Rater, the ECC-Provider shall issue a notice of violation to the ECC-Rater, and any ECC-Rater Companies for which the ECC-Rater performs FV&DT services. The ECC-Rater Company or Independent Rater shall notify the affected homeowner and show proof of such notice to the ECC-Provider. Within three (3) months of issuance of the Notice of Violation, the ECC-Provider will perform a Desk Audit (Section 10-103.3(d)5Civ) on the ECC-Rater.
- i. The ECC-Provider shall require the ECC-Rater take additional training or other corrective action related to the violations within a specified timeframe.
  - ii. The ECC-Provider shall hold the ECC-Rater responsible for the costs of quality assurance testing and additional training for the violations. The ECC-Rater or ECC-Rater Company shall be responsible for the costs to the property owner for the original field verification and diagnostic test and any necessary retesting because of the violations.
  - iii. The notice of violation shall be in writing and include a description of the regulatory requirements and violations, the date and approximate time of the violations, the parties affected by the violations, any corrective action the ECC-Rater shall take, any costs the ECC-Rater shall reimburse, the timeframe for complying with all requirements of the notice of violation.
  - iv. The ECC-Rater will have 10 days of receipt of the notice of violation to respond in writing. If the ECC-Provider receives a response, the ECC-Provider shall acknowledge the response, and, within 5 days, request additional information needed from the ECC-Rater. The ECC-Rater shall have 5 days to provide additional information to the ECC-Provider. Within 30 days of the date of the notice of violation or within 20 days of receiving a response or additional information from the ECC-Rater, whichever is later, the ECC-Provider shall provide a final determination of a violation to the ECC-Rater, any affected homeowners, and any ECC-Rater Company for which the ECC-Rater performs field verification and diagnostic testing services. The violation shall not be effective until the ECC-Rater has exhausted the right to request reconsideration by the ECC-Provider or until the time to exercise that right has lapsed (Section 10-103.3(d)7Aiv).
- B. **Step 2: Probation.** If an ECC-Rater fails to comply with a notice of violation within the specified timeframe or receives a second notice of violation within a three-month period, the ECC-Provider shall issue a notice to the ECC-Rater and any ECC-Rater

Company for which the ECC-Rater performs field verification and diagnostic testing services, placing the ECC-Rater on probation for up to six months.

- i. While on probation, the ECC-Rater shall be required to retake the training for both written and laboratory (Section 10-103.3(d)1Ai and Section 10-103.3(d)1Aii) and pass the required testing (Section 10-103.3(d)1Av and Section 10-103.3(d)1Avi) related to the violated regulations.
  - ii. The notice shall be in writing and include a description of the regulatory requirements and violations, the date and approximate time of the violations, the parties affected by the violations, any corrective action the ECC-Rater must take, any costs the ECC-Rater must reimburse, and the timeframe for complying with all requirements of the notice of violation.
  - iii. The ECC-Rater will have 10 days of receipt of the notice of probation to respond in writing. If the ECC-Provider receives a response, the ECC-Provider shall acknowledge the response and, within 5 days, request additional information needed from the ECC-Rater. The ECC-Rater shall have 5 days to provide additional information to the ECC-Provider. Within 30 days of the date of notice of probation or within 20 days of receiving a response or additional information from the ECC-Rater, whichever is later, the ECC-Provider shall provide a final determination of probation to the ECC-Rater and any affected ECC-Rater Company. The terms of probation shall last no more than six months and shall not be effective until the ECC-Rater has exhausted the right to request for reconsideration by the ECC-Provider or until the time to exercise that right has lapsed (Section 10-103.3(d)7Biii).
- C. **Step 3: Suspension.** If an ECC-Rater fails to fully comply with the terms of probation or receives a new notice of violation while on probation, the ECC-Provider shall issue a notice to the ECC-Rater, and any ECC-Rater Company for which the ECC-Rater performs field verification and diagnostic testing services.
- i. The notice of suspension shall be in writing and include the basis for suspension, duration of suspension, all corrective action the ECC-Rater must complete during suspension.
  - ii. The ECC-Rater shall have 10 days of receipt of the notice of suspension to respond in writing. If the ECC-Provider receives a response, the ECC-Provider shall acknowledge the response and, within 5 days, request additional information needed from the ECC-Rater. The ECC-Rater shall have 5 days to provide additional information to the ECC-Provider. Within 30 days of the date of the notice of suspension or within 20 days of receiving a response or additional information from the ECC-Rater, whichever is later, the ECC-Provider shall provide a final determination of suspension to the ECC-Rater and any ECC-Rater Company for which the ECC-Rater performs field verification and diagnostic testing services. The suspension shall not be effective until the ECC-Rater has exhausted their right to appeal pursuant to Section 10-103.3(h) or until the time to exercise their right to appeal has lapsed.

- iii. Once the suspension becomes effective, the ECC-Provider shall prohibit the ECC-Rater from submitting any new compliance documents (Section 10-103) or otherwise accessing the ECC-Provider data registry until the suspension has ended.
- D. **Step 4: Decertification.** If an ECC-Rater fails to comply with the terms of suspension or receives a new notice of violation while suspended or while a notice of suspension is pending, the ECC-Provider shall issue a notice of decertification to the ECC-Rater and any ECC-Rater Company for which the ECC-Rater performs field verification and diagnostic testing services.
- i. The notice of decertification shall be in writing and include the basis for decertification.
  - ii. The ECC-Rater will have 10 days of receipt of the notice of decertification to respond in writing. If the ECC-Provider receives a response, the ECC-Provider shall acknowledge the response, and, within 5 days, request additional information needed from the ECC-Rater. The ECC-Rater shall have 5 days to provide additional information to the ECC-Provider. Within 30 days of the date of the notice of decertification or within 20 days of receiving a response or additional information from the ECC-Rater, whichever is later, the ECC-Provider shall provide a final determination on proceeding with decertification to the ECC-Rater and any ECC-Rater Company for which the ECC-Rater performs field verification and diagnostic testing services. The decertification shall not be effective until the ECC-Rater has exhausted their right to appeal pursuant to Section 10-103.3(h) or until the time to exercise their right to appeal has lapsed.
8. **ECC-Rater Company Discipline.** If an ECC-Rater Company violates these regulations, the ECC-Provider shall take the following disciplinary steps to address and correct the noncompliance. However, in the event of a severe violation, the ECC-Provider shall proceed immediately to the suspension or decertification step. A severe violation of these regulations includes knowingly creating false field verification or diagnostic testing documents, any violation involving criminal activity, coordinating or participating in an organized scheme to violate these regulations, or a demonstrated pattern of violating these regulations. The ECC-Provider and ECC-Rater Company may extend, by written agreement, the time for response, reply, and final determination for each step below. At any time, the Executive Director may direct an ECC-Provider to investigate an ECC-Rater Company or discipline an ECC-Rater Company pursuant to Section 10-103.3(d)8.
- A. **Step 1: Notice of Violation.** Upon identification of one or more violations of these regulations by an ECC-Rater Company, the ECC-Provider shall issue a notice of violation to the ECC-Rater Company and any affected homeowners.
    - i. The ECC-Provider may require the ECC-Rater Company to take additional training or other corrective action related to the violations within a specified timeframe.
    - ii. The ECC-Provider may hold the ECC-Rater Company responsible for the costs of quality assurance testing and additional training for the violations, and the costs

to the property owner for the original field verification and diagnostic test and any necessary retesting because of the violations.

- iii. The notice of violation shall be in writing and include a description of the regulatory requirements and violations, the date and approximate time of the violations, the parties affected by the violations, any corrective action the ECC-Rater Company must take, any costs the ECC-Rater Company must reimburse, and the timeframe for complying with all requirements of the notice of violation.
- iv. The ECC-Rater Company will have 10 days of receipt of the notice of violation to respond in writing. If the ECC-Provider receives a response, the ECC-Provider shall acknowledge the response and, within 5 days, request additional information needed from the ECC-Rater Company. The ECC-Rater Company shall have 5 days to provide additional information to the ECC-Provider. Within 30 days of the date of the notice of violation or within 20 days of receiving a response or additional information from the ECC-Rater Company, whichever is later, the ECC-Provider shall provide a final determination of a violation to the ECC-Rater Company within 30 days. The violation shall not be effective until the ECC-Rater Company has exhausted its right to request reconsideration by the ECC-Provider or until the time to exercise that right has lapsed (Section 10-103.3(d)8Aiv).

B. **Step 2: Probation.** If an ECC-Rater Company fails to complete all corrective actions and reimburse all costs specified for a violation within the required timeframe or receives two violations within a three-month period, the ECC-Provider shall issue a notice of probation to the ECC-Rater Company.

- i. The notice of probation shall be in writing and include the basis for probation, the duration of probation, and all corrective action the ECC-Rater Company must complete during probation.
- ii. The ECC-Rater Company will have 10 days of receipt of the notice of probation to respond in writing. If the ECC-Provider receives a response, the ECC-Provider shall acknowledge the response, and, within 5 days, request additional information needed from the ECC-Rater Company. The ECC-Rater Company shall have 5 days to provide additional information to the ECC-Provider. Within 30 days of the date of notice of probation or within 20 days of receiving a response or additional information from the ECC-Rater, whichever is later, the ECC-Provider shall provide a final determination of probation to the ECC-Rater Company. The terms of probation shall last no more than six months and shall not be effective until the ECC-Rater Company has exhausted its right to request reconsideration by the ECC-Provider or until the time to exercise that right has lapsed (Section 10-103.3(d)8Bii).

C. **Step 3: Suspension.** If an ECC-Rater Company fails to fully comply with the terms of probation or receives a new notice of violation while on probation, the ECC-Provider shall issue a notice of suspension to the ECC-Rater Company.

- i. The notice of suspension shall be in writing and include the basis for suspension, the duration of suspension, and all corrective action the ECC-Rater Company must complete during suspension.
- ii. During suspension, the provider will disable access to its registry for all raters of the rater company.
- iii. The ECC-Rater Company will have 10 days of receiving the notice of suspension to respond in writing. If the ECC-Provider receives a response, the ECC-Provider shall acknowledge the response and, within 5 days, request additional information needed from the ECC-Rater Company. The ECC-Rater Company shall have 5 days to provide additional information to the ECC-Provider. Within 30 days of the date of the notice of suspension or 20 days of receiving a response or additional information from the ECC-Rater, whichever is later, the ECC-Provider shall provide a final determination of suspension. The suspension shall not be effective until the ECC-Rater Company has exhausted its right to appeal pursuant to Section 10-103(h) or until the time to exercise its right to appeal has lapsed.

D. **Step 4: Decertification.** If an ECC-Rater Company fails to comply with the terms of suspension or receives a new notice of violation while suspended or while a notice of suspension is pending, the ECC-Provider shall issue a notice of decertification to the ECC-Rater Company.

- i. The notice of decertification shall be in writing and include the basis for decertification.
- ii. The ECC-Rater Company will have 10 days of receipt of the notice of decertification to respond in writing. If the ECC-Provider receives a response, the ECC-Provider shall acknowledge the response and, within 5 days, request additional information needed from the ECC-Rater Company. The ECC-Rater Company shall have 5 days to provide additional information to the ECC-Provider. No earlier than 30 days of the date of the notice of suspension or 20 days of receiving a response or additional information from the ECC-Rater, whichever is later, the ECC-Provider shall provide a final determination of decertification. The decertification shall not be effective until the ECC-Rater Company has exhausted its right to appeal pursuant to (Section 10-103.3(h)) or until the time to exercise its right to appeal has lapsed.

9. **Data Recording**

A. **Data Recording for Field Verification and Diagnostic Tests.** Each ECC-Provider shall record all data collected by an ECC-Rater for a field verification and diagnostic test, including the following data:

- i. The registered Certificate(s) of Compliance, Certificate(s) of Installation, Certificate(s) of Verification, and their associated Compliance Registration Packages.
- ii. The energy efficiency improvements verified or tested, if applicable.

- iii. Whether the builder chose to include the home in a sample for FV&DT as specified in the Residential Appendices.
- iv. Whether initial FV&DT as specified in the Residential Appendices was conducted on the home.
- v. Whether the home in a sample was selected and verified or tested as specified in the Residential Appendices.
- vi. Whether the home in a sample was selected for resampling and verified or tested after a sampling failure was found in the sample as specified in the Residential Appendices.
- vii. Whether the home in a sample was verified or tested and corrective action was taken after a resampling failure was found in the sample as specified in the Residential Appendices.
- viii. Whether the homeowner declined to have verification or testing, and corrective action taken after occupancy as specified in the Residential Appendices.

**B. Data Recording for Quality Assurance Actions.**

- i. An ECC-Provider shall record all Quality Assurance and disciplinary actions taken against each ECC-Rater and ECC-Rater Company.
- ii. The ECC-Provider shall maintain a database tracking system indicating the certificate status of all certified ECC-Raters and ECC-Rater Companies and all Quality Assurance or disciplinary actions taken against each ECC-Rater and ECC-Rater Company.
- iii. Quality Assurance Data regarding ECC-Raters and ECC-Rater Companies shall include all of the following:
  - a. Name, business address, and contact information for each certified ECC-Rater, ECC-Rater Company, or applicant.
  - b. Current status of certification, limited to one of the following: Application-in-Review, In-training, Certified, Under Notice of Violation, on Probation, on Suspension, Decertified, Certification Dormant (no data registration activity in one year).
  - c. **Quality Assurance Actions.** List and indicate pass or fail with an explanation of all of the following audits for each certified ECC-Rater:
    - (i) Onsite Audits (Section 10-103.3(d)5Ci).
    - (ii) Shadow Audits (Section 10-103.3(d)5Cii).
    - (iii) Desk-Audits (Section 10-103.3(d)5Civ).
  - d. **Detailed Quality Assurance Action Records.** The ECC-Provider shall keep all field notes and associated records regarding passed, warnings issued, or failed quality assurance tests for each certified ECC-Rater for no less than five (5) years.

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 query, search, index, process, or otherwise interact with that data stored on the ECC-Provider's system in a way that is not substantially limited compared to the ability of the 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.
- D. ECC-Providers shall maintain digital copies of all files that can be indexed and searched. 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.

11. **Data Reporting.** ECC-Providers shall comply with the following reporting requirements:

- A. ECC-Providers shall maintain a database of the information specified in Section 10-103.3(d)9A and in compliance with Building Energy Efficiency Standards, Reference Appendix JA7, for the greater of: 500 buildings field verified and diagnostically tested by ECC-Raters certified by the respective ECC-Provider each year, or a 10 percent random sample of buildings field verified and diagnostically tested by ECC-Raters certified by the respective ECC-Provider each year.
- B. Beginning January 1, 2027, ECC-Providers shall provide this information annually in electronic form to the Commission for evaluating the effectiveness of field verification and diagnostic testing.
- C. This information shall be organized according to climate zones as defined in the Building Energy Efficiency Standards, Section 100.1(b).
- D. **FV&DT Data Reporting.** Within ninety days of the Executive Director approving a CEC-maintained electronic document repository, an ECC-Provider shall transmit to the Commission electronic document depository Certificate(s) of Certification, Certificate(s) of Installation, Certificate(s) of Verification documents (Section 10-103) and their associated Compliance Registration Packages that are registered and retained by a data registry in accordance with Section 10-103 and Building Energy Efficiency Standards, Appendix JA7. The ECC-Provider shall submit this data no less than once per calendar quarter and in a manner as directed by the Commission. Once implemented, this requirement shall supersede the requirements of Sections 10-103.3(d)11A, 10-103.3(d)11B and 10-103.3(d)11C.
- E. **Quality Assurance Quarterly Report.** The ECC-Provider shall send a report each quarter to the Commission that includes all failed quality assurance audits (Section 10-103.3(d)5). The ECC-Provider shall comply with all of the following:

- i. Submit a Quality Assurance Quarterly Report for each project where an audit (Section 10-103.3(d)5) was performed and failed within the calendar quarter. The Quality Assurance Quarterly Report shall be submitted no less than 60 days after the end of the calendar quarter. Each reported project shall list the contractor information, ECC-Rater information, project address, project permit code (if available), other project identification available to help identify the project, and code violations for each failed audit (as prescribed in Section 10-103.3(d)5).
- ii. The ECC-Provider shall submit all Quality Assurance Quarterly Reports to the Commission in a docket prepared by the Commission.

**F. Quality Assurance Annual Report.**

- i. An ECC-Provider shall submit a Quality Assurance Annual Report to the Commission for each calendar year no later than the end of February of the following year.
- ii. The Quality Assurance Annual Report shall include all specified records within the annual timeframe.
- iii. The Quality Assurance Annual Report shall summarize all quality assurance actions taken for each ECC-Rater certified by the ECC-Provider during the preceding year.
- iv. Detailed Quality Assurance Action Records (Section 10-103.3(d)9Biiid) are not required to be submitted annually to the Commission but shall be subject to Commission requests for information made pursuant to Section 10-103.3(d)12.

**G. Annual Reporting Requirements Regarding ECC-Rater Companies.**

- i. Beginning in 2027, an ECC-Provider shall submit an ECC-Rater Company Annual Report to the Commission by June first of each year.
- ii. The data used as the basis for the ECC-Rater Company Annual Report shall include submitted reports from all ECC-Rater Companies (Section 10-103.3(f)2H) and all ECC-Raters filing as an independent (Section 10-103.3(e)2G).
- iii. The ECC-Provider shall ensure that the ECC-Rater Company Annual Report includes all of the following:
  - a. The compliance status of the principal licensure requirements (Section 10-103.3(f)1B) are met for each ECC-Rater Company and the certification status of ECC-Rater filing as independent (Section 10-103.3(e)1A).
  - b. The number of all types of certificate status (Section 10-103.3(e)1A) for all ECC-Raters employed by each ECC-Rater Company.
  - c. Whether the total number of field verifications and diagnostic tests registered by each ECC-Rater Company and ECC-Rater filing as an independent is accurate as compared to the ECC-Provider data registry.

d. An aggregation of the total and average costs of services for each type of field verifications and diagnostic tests reported by all ECC-Rater Companies and ECC-Rater filing as an independent without any associated identification. The ECC-Provider shall summarize the cost of services data by local jurisdiction and climate zone independently. All aggregations shall consist of at least three reports of either ECC-Rater Company (Section 10-103.3(f)2H) or ECC-Rater (Section 10-103.3(e)2G) filing as independent. All unaggregated results shall be included in a “other” category if consisting of at least three ECC-Rater Companies or ECC-Rater filing as independent. The ECC-Provider shall include the total number of reports for ECC-Rater Companies and ECC-Raters filing as an independent that were not possible to aggregate or are otherwise not included in the report.

H. **Immediate Reporting of Disciplinary Actions.** The ECC-Provider shall provide written notification of any ECC-Rater or ECC-Rater Company decertification to the Commission within 24 hours of decertification. The Commission shall notify all ECC-Providers of the decertification and instruct all ECC-Providers to immediately suspend the ECC-Rater’s or ECC-Rater Company’s access credentials to their respective data registries.

12. **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.

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.

13. **Data Registry Requirements.** ECC-Providers must comply with all data registry requirements provided by the Building Energy Efficiency Standards, Reference Joint Appendix JA7 and Section 10-109.

14. **No Approved ECC-Providers.** If there are no certified ECC-Providers, the CEC may perform the ECC-Provider Responsibilities provided in Section 10-103.3(d) or suspend all or a portion of the FV&DT program, including (but not limited to) relevant provisions of the Building Energy

Efficiency Standards found in the Residential Appendices RA1, RA2, RA3 and RA4, Nonresidential Appendix NA1 and NA2, Reference Joint Appendix JA7 and Section 10-109.

15. **ECC-Provider Discipline.** If the Executive Director becomes aware of an ECC-Provider’s violation of these regulations, including any Conditions of Approval, the Executive Director shall take the disciplinary steps necessary to address and correct the violation. Violations that trigger the disciplinary process include failure to comply with quality assurance requirements (Section 10-103.3(d)5), failure to investigate or discipline ECC-Raters and ECC-Rater Companies (Section 10-103.3(d)7 and Section 10-103.3(d)8), failure to allow the Commission full access to the ECC-Provider data registry (Section 10-103.3(d)12), refusal to comply with Commission data requests (Section 10-103.3(d)12), failure to cooperate in a Commission complaint investigation (Section 10-103.3(d)12), and failure to otherwise comply with any applicable law or regulation. In the event of a severe violation, the Executive Director may proceed immediately to issue a notice of suspension for the first severe violation and to issue a notice of decertification for a second severe violation. A severe violation of these regulations includes knowingly creating false field verification or diagnostic testing documents, any violation involving criminal activity, coordinating or participating in an organized scheme to violate these regulations, or a demonstrated pattern of violating these regulations.

- A. **Step 1: Notice of Violation** Upon identification of one or more violations of these regulations by an ECC-Provider, the Executive Director shall issue a notice of violation to the ECC-Provider’s designated contact and publicly post the notice. The Executive Director shall require the ECC-Provider to take corrective action related to the violations within a specified timeframe. The notice of violation shall be in writing and include a description of the legal requirements and violations, any corrective action the ECC-Provider must take, and the timeframe for complying with all the notice of violation requirements. The ECC-Provider will have 10 days of receipt of the notice of violation to respond in writing. If the Executive Director receives a response, the Executive Director shall acknowledge the response and, within 5 days, request additional information needed from the ECC-Provider. The ECC-Provider will have 5 days to provide additional information to the Executive Director. Within 30 days of the date of the notice of violation or within 20 days of receiving additional information from the ECC-Provider, whichever is later, the Executive Director shall provide a final determination of a violation to the ECC-Provider.
- B. **Step 2: Probation.** If an ECC-Provider fails to complete all corrective action prescribed by the Executive Director within the specified timeframe or receives a second notice of violation within a three-month period, the Executive Director shall issue a notice of probation to the ECC-Provider’s designated contact. The Executive Director shall also publicly post the notice of probation. The notice shall be in writing, include a description of the regulatory requirements and violations, and specify the probation duration. The ECC-Provider will have 10 days of receipt of the notice of probation to respond in writing. If the Executive Director receives a response, the Executive Director shall acknowledge the response and, within 5 days, request additional information needed from the ECC-Provider. The ECC-Provider will have 5 days to provide additional information to the Executive Director. Within 30 days of the date of the notice of

probation or within 20 days of receiving additional information from the ECC-Provider, whichever is later, the Executive Director shall provide a final determination of probation to the ECC-Provider.

- C. **Step 3: Suspension.** If an ECC-Provider fails to complete all corrective action or receives a new notice of violation while on probation, the Executive Director shall issue a notice of suspension to the ECC-Provider’s designated contact. The Executive Director shall also publicly post the notice of suspension. The notice shall be in writing, include a description of the regulatory requirements, violations, and proposed terms of suspension. The terms of suspension shall not be effective until the ECC-Provider has exhausted its right to appeal pursuant to Section 10-103.3(h) or until the time to exercise its right to appeal has lapsed, at which time the terms of suspension shall be deemed to have been imposed by the Commission.
- i. The ECC-Provider shall have 10 days of receipt of the notice of suspension to respond in writing. If the Executive Director receives a response, the Executive Director shall acknowledge the response and, within 5 days, request additional information needed from the ECC-Provider. The ECC-Provider will have 5 days to provide additional information to the Executive Director. Within 30 days of the date of the notice of suspension or within 20 days of receiving additional information from the ECC-Provider, whichever is later, the Executive Director shall provide a final determination of a suspension to the ECC-Provider.
  - ii. **Terms of Suspension.** Suspension may include conditionally or unconditionally restricting access to the Report Generator by the ECC-Provider. The duration of suspension shall be included in the terms of suspension.
  - iii. **Amendment to Terms of Suspension.** The Executive Director may amend any term of the suspension by issuing a notice of amendment to terms of suspension to the ECC-Provider’s Designated Contact that includes the new terms of suspension and proposed effective date. Within 30 days of the date of the notice, the ECC-Provider may appeal the new terms pursuant to Section 10-103.3(h) or accept the new terms. If the ECC-Provider does not respond to the notice, the new terms shall go into effect on the 31st day after the date of the notice.
  - iv. **180-day Report.** After 180 days of suspension, the Executive Director has 30 days to send to the ECC-Provider’s Designated Contact and publicly post a 180-day report that includes each outstanding violation, a timeline of when notices of potential violation and notices of violation were given for each outstanding violation, the date the probation began, the date suspension began and all terms of suspension, any amendments during the suspension, all steps the Executive Director is aware that the ECC-Provider has taken to remedy each violation, and any other information the Executive Director deems relevant, including the Executive Director’s intentions moving forward with respect to the ECC-Provider.

- D. **Step 4: Rescinding Approval.** If an ECC-Provider fails to comply with the terms of suspension or receives a new notice of violation while suspended or while a notice of suspension is pending, the Executive Director shall issue a notice of rescinding approval to the ECC-Provider's designated contact. The rescinded approval shall not be effective until the ECC-Provider has exhausted its right to appeal pursuant to Section 10-103.3(h) or until the time to exercise its right to appeal has lapsed, at which time the rescinded approval shall be deemed to have been imposed by the Commission.
- i. The ECC-Provider shall have 10 days of receipt of the notice of rescinded approval to respond in writing. If the Executive Director receives a response, the Executive Director shall acknowledge the response and, within 5 days, request additional information needed from the ECC-Provider. The ECC-Provider will have 5 days to provide additional information to the Executive Director. Within 30 days of the date of the notice of rescinded approval or within 20 days of receiving additional information from the ECC-Provider, whichever is later, the Executive Director shall provide a final determination of a rescinded approval to the ECC-Provider.
- E. **Remediation** required to restore eligibility to apply to be an ECC-Provider. Once an ECC-Provider has been decertified, neither that entity nor any successor, subsidiary, or otherwise affiliated or substantially similar organization, is eligible to apply to operate as or apply to become a certified ECC-Provider until it has completed the following Remediation process:
- i. A decertified ECC-Provider may regain their eligibility to apply to become an ECC-Provider by submitting an Application for Remediation pursuant to Section 10-103.3(c)9 and receiving the Commission's approval.
  - ii. Once a decertified ECC-Provider has completed the Remediation process by receiving the Commission's approval, the decertified ECC-Provider becomes a remediated ECC-Provider eligible to submit an ECC-Provider Application pursuant to Section 10-103.3(c)3 according to the process set out in Section 10-110. A remediated ECC-Provider is only eligible for a full application pursuant to Section 10-103.3(c)3.

(e) **ECC-Rater Certification and Responsibilities**

1. **Certification.**

- A. **Certification Process.** ECC-Rater applicants shall apply to a Commission approved ECC-Provider for certification pursuant to the application process established by the ECC-Provider.
- B. **Minimum Qualifications.** ECC-Rater applicants shall have completed all training set forth in Section 10-103.3(d)1.
- C. **ECC-Rater Agreement.** Prior to being certified, an ECC-Rater applicant shall sign the ECC-Rater agreement with the ECC-Provider, in which the ECC-Rater shall agree, at minimum, to comply with all applicable laws and regulations, including the requirements provided in this Section 10-103.3.

- D. **Clean Certification Record.** ECC-Providers shall not issue a new ECC-Rater certification to any ECC-Rater applicant if that applicant has an ongoing disciplinary proceeding requiring resolution by another ECC-Provider.
- i. At a minimum, the issuing ECC-Provider shall require an ECC-Rater applicant to attest that the ECC-Rater applicant is in good standing with all other ECC-Providers.
  - ii. Any ECC-Provider may submit a complaint to the Commission if it suspects that an ECC-Rater with an outstanding disciplinary status requiring resolution has been issued a new ECC-Rater certification by another ECC-Provider.
2. **Required Conduct.**
- A. ECC-Raters shall provide field verification services in compliance with these regulations, including any regulations contained in the California Building Energy Efficiency Standards and related Reference Appendices RA1, RA2, RA3, RA4, JA7, NA1, and NA2
  - B. ECC-Raters shall not create, record, submit, or certify untrue, inaccurate, or incomplete field verification and diagnostic test information or report field verification and diagnostic test results that did not comply with these regulations.
  - C. ECC-Raters shall not accept payment or other consideration in exchange for reporting a field verification and diagnostic test result not conducted and reported in compliance with these regulations.
  - D. ECC-Raters shall comply with the conflict-of-interest prohibitions set forth in Section 10-103.3(b)1.
  - E. ECC-Raters shall be present and personally participate in any field verification and diagnostic test or field verification activity. If an ECC-Rater relies on employees, designees, trainees, or any other individual to assist them in performing field verification and diagnostic test activity, the ECC-Rater shall be able to directly monitor and verify that any tests or measurements were performed properly in accordance with regulations.
  - F. ECC-Raters shall not provide information based on assumptions, averages, or otherwise generated in any way other than by field verification and diagnostic testing performed in accordance with these regulations. Any such information is presumed to be untrue, inaccurate, and/or incomplete unless the ECC-Rater has the written permission of the Executive Director that explains how that information is collected and why such data is not untrue, inaccurate, and/or incomplete.
  - G. ECC-Raters not employed by an ECC-Rater Company are considered independent. Independent ECC-Raters shall submit annual reports no later than the end of March of each year starting in 2027 to the ECC-Provider that includes the information listed in Section 10-103.3(f)2Hiii and Section 10-103.3(f)2Hiv.
3. **Failure to Adhere to Required Conduct.** ECC-Raters are subject to the disciplinary action set forth in Section 10-103.3(d)7 for the failure to adhere to the required conduct and these regulations.

4. **Appeal and Reconsideration of Discipline.**

- A. ECC-Raters may seek reconsideration and review of a disciplinary action as set forth in Section 10-103.3(d)7.
- B. ECC-Raters may appeal a disciplinary action imposed on them as set forth in Section 10-103(h).

(f) **ECC-Rater Company Certification and Responsibilities**

1. **Certification.**

- A. **Certification Process.** ECC-Rater Company applicants shall apply to a Commission approved ECC-Provider pursuant to the application process established by the ECC-Provider.
- B. **Minimum Qualifications.** At least one principal of the ECC-Rater Company applicant shall hold an active ECC-Rater certification issued by a Commission approved ECC-Provider or be actively pursuing certification as evidenced by enrollment in training courses.
- C. **Training.** Prior to being certified, the ECC-Rater Company applicant shall complete all required training provided by the ECC-Provider.
- D. **ECC-Rater Company Agreement.** Prior to being certified, the ECC-Rater Company applicant shall sign an agreement with the ECC-Provider, in which the ECC-Rater Company shall agree, at minimum, to comply with all applicable laws and regulations, including but not limited to the requirements provided in Section 10-103.3.

2. **Required Conduct.**

- A. ECC-Rater Companies shall maintain a publicly available list of all of its ECC-Raters.
- B. ECC-Rater Companies shall have view-only access to the compliance documents registered by its ECC-Rater.
- C. ECC-Rater Companies shall not change data entered into the ECC-Provider data registry for any Certificates of Verification.
- D. ECC-Rater Companies may be the “document author” for Certificates of Compliance and Certificates of Installation registered in the ECC-Provider data registry but may not sign as the “Responsible Person” or “Installing Technician.”
  - i. An ECC-Rater or ECC-Rater Company may sign the Certificate of Installation as the “Responsible Person” if they have a Delegation of Signature Authority (Section 10-103(a)3A) agreement with the Responsible Person and in place with ECC-Provider.
- E. ECC-Rater Companies shall use the approved data registry user interface of a data registry or an approved external digital data service for data input into the ECC-Provider data registry.
- F. No later than March 31 of each year, each ECC-Rater Company shall submit to the ECC-Provider an annual report that includes:
  - i. ECC-Rater Company Contact details, principals, and required certificates.
  - ii. A list of all ECC-Raters working for the ECC-Rater Company.

- iii. The total number of field verifications and diagnostic tests performed by ECC-Raters working for the ECC-Rater Company during the prior calendar year, organized by building code jurisdiction.
      - iv. The total and average cost of services charged for each type of field verification and diagnostic test performed by ECC-Raters working for the ECC-Rater Company during the prior calendar year.
    - G. The ECC-Rater Company is responsible for assuring all of its ECC-Raters comply with these regulations and all other applicable laws and regulations when providing field verification and diagnostic services.
    - H. The ECC-Rater Company shall support the ECC-Rater progressive discipline requirements (Section 10-103.3(d)7) as follows:
      - i. **Notice of Violation.** The ECC-Rater Company shall ensure the ECC-Rater complies with any corrective action and reimbursement of costs prescribed in the notice of violation within the timeframe provided in the notice of violation. The ECC-Rater Company shall facilitate any refund to a homeowner.
      - ii. **Probation.** The ECC-Rater Company shall ensure the ECC-Rater complies with any training and tests and reimbursement of costs prescribed in the notice of probation within the time provided in the notice of probation. The ECC-Rater Company shall not assign any new work to the ECC-Rater until probation is lifted.
      - iii. **Suspension.** The ECC-Rater Company shall ensure the ECC-Rater complies with the terms of suspension prescribed in the notice of suspension.
      - iv. **Decertification.** The ECC-Rater Company shall ensure the decertified ECC-Rater does not perform any FV&DT services.
    - I. ECC-Rater Companies shall not provide untrue, inaccurate, or incomplete field verification and diagnostic test information or report field verification and diagnostic test results that did not comply with these regulations.
    - J. ECC-Rater Companies shall not accept payment or other consideration in exchange for reporting a field verification and diagnostic test result not conducted and reported in compliance with these regulations.
    - K. **Prohibition of Conflicts of Interest.** ECC-Rater Companies shall comply with the conflict-of-interest prohibitions set forth in Section 10-103.3(b)1.
  - 3. **Failure to Adhere to Required Conduct.** ECC-Rater Companies are subject to the disciplinary action set forth in Section 10-103.3(d)8 for the failure to adhere to the required conduct and these regulations.
  - 4. **Reconsideration of Discipline.** ECC-Rater Companies may request reconsideration and review of a disciplinary action as set forth in Section 10-103.3(d)8.
- (g) **Prohibition from Practice and Re-Entry.** Any ECC-Rater, ECC-Rater Company, or ECC-Provider that is currently suspended, or that has been decertified by the Executive Director or Commission pursuant to these regulations, is prohibited from operating pursuant to its certification under these regulations.

1. **ECC-Raters.**
    - A. While prohibited from practice, an ECC-Rater shall not submit field verification and diagnostic test information, including any compliance documents or Compliance Registration Packages, to an ECC-Provider, Data Registry, or the Commission.
    - B. Any such information submitted by an ECC-Rater who is prohibited from practicing is invalid and may not be relied on for purposes of permit compliance under the Energy Code.
  2. **ECC-Rater Companies.** ECC-Rater Companies shall not act in any manner that leads to, encourages, or aids a violation of the prohibition to practice.
  3. **ECC-Providers.**
    - A. No ECC-Provider shall accept or maintain field verification and diagnostic test information, including any compliance documents or Compliance Registration Packages, from an entity that is prohibited from practice at the time that information was either gathered or submitted.
    - B. Nothing in this subsection shall be interpreted as prohibiting an ECC-Provider from storing or relying on information submitted by a ECC-Rater while they were in good standing.
  4. **Re-Entry.** The Executive Director or Commission may, for good cause, reinstate an entity's ability to practice pursuant to Section 10-103.3(c).
- (h) **Appeal to Commission.** Within 30 days of any decision or determination made by the Executive Director (Section 10-103.3(d)15) or an ECC-Provider (Section 10-103.3(d)7 and Section 10-103.3(d)8), an ECC-Provider, ECC-Rater, or ECC-Rater Company subject to the decision or determination ("appellant") may appeal the decision or determination to the Commission. The following procedures apply to the appeal:
1. The appeal shall be in writing and signed by the appellant and served on the party whose decision is the subject of appeal ("respondent") and the Commission. The appeal shall consist of a written argument, stating the grounds for modifying or reversing the decision, identifying the statutes and regulations relevant to the appeal, and stating whether an oral hearing is requested, and a copy of all relevant notices, responses, correspondence, documents, and decisions.
  2. Within 30 days after the date the appeal was filed, the respondent shall serve on the appellant and the Commission a written argument, stating the grounds for affirming, modifying, or reversing the decision, identifying the statutes and regulations relevant to the appeal, and stating whether an oral hearing is requested. The respondent's written argument shall also be accompanied by any relevant notices, responses, correspondences, documents, and decisions not previously provided by the appellant.
  3. **Commission Consideration of Appeal**
    - A. The proceedings on appeal shall be conducted in a manner consistent with Chapter 4.5 of the Government Code (Section 11400 et seq.) and Title 20 CCR sections 1200-1216.
    - B. The Commission shall review the decision or determination made pursuant to this section for substantial evidence.

