

STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION

In the matter of:

Public Workshop Regarding the) Docket No. 22-BSTD-03
Update of the Home Energy)
Rating System Regulations)
_____)

2025 FIELD VERIFICATION AND DIAGNOSTIC
TESTING OIR PROCEEDING

REMOTE VIA ZOOM

FRIDAY, JUNE 9, 2023

10:00 A.M.

Reported by:

E. Hicks

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David Choo, CalcERTS
Rob Starr, CHEERS
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1 requirements contained in both California Code of
2 Regulations, Title 20 and Title 24, regarding the
3 current HERS program.

4 Title 24 in particular, and the field and
5 diagnostic testing requirements, are related to
6 the Energy Code. There are other components of
7 the HERS program, but the focus today is on those
8 related to the Energy Code.

9 The purpose of today's workshop is to
10 discuss revisions to the staff report and
11 proposed language that have resulted in input we
12 have received to date. The original staff report
13 was published in October of 2022, and since that
14 time, we've had two public workshops, one in
15 November of 2022 and another one in January of
16 2023.

17 During this time, we have also received
18 numerous comments, both orally and in written
19 form. Those submitted to the dockets and
20 provided to staff have been very informative, and
21 this input is informing our final recommendation
22 to improve the program.

23 We continue to solicit feedback from
24 everyone, you in particular, and we really
25 appreciate your thoughts, your information, the

1 data related to the impacts that these changes
2 might have, particularly related to costs and
3 impacts to consumers and local building
4 departments, or, as we tend to refer to them,
5 "authorities having jurisdiction."

6 Before we begin this workshop, I have a
7 few housekeeping items that we need to cover.
8 Currently, all attendees are muted. When we get
9 to the public comment period of our agenda today,
10 we ask that you use the raise hand function on
11 your Zoom menu so that you can be called on by
12 us. We need to see you, and then we can call on
13 you.

14 If you raise your hand, you will be
15 unmuted, but you also have to accept the unmute
16 prompt in order to be heard. If you are on a
17 cell phone, please punch "star, nine" to raise
18 your hand, and "star, six" to mute and unmute
19 yourself. Before you begin to speak or make your
20 comments, we ask that you please state your name
21 and your affiliation. This will allow us to
22 better identify you in the transcript and on the
23 record.

24 You can make comments or ask questions at
25 any time during the meeting using the Q and A box

1 on the Zoom menu. To use the Q and A feature,
2 type your question into the box, and we will try
3 to answer them verbally or we'll do so later in
4 writing. Again, please include your name and
5 affiliation. All comments and questions put in
6 the QA box are saved.

7 To support this ongoing discussion, and
8 for those not able to attend today's workshop, we
9 are ensuring that a record is maintained through
10 the recording and the transcript. We will post
11 all of this information, and the presentations,
12 to our website, and the materials will also be
13 docketed.

14 We'd like to thank you again for
15 attending and participating in today's workshop
16 as we continue this discussion on changes to the
17 regulations.

18 Now, I just want to cover, briefly, the
19 agenda for today. Commissioner McAllister will
20 be making some opening remarks, and Joe Loyer
21 will be making our presentation relating to the
22 staff changes. There will be three panels today,
23 and we invite you to -- as the panels make their
24 presentation, there will be an opportunity for
25 questions and answers after their remarks are

1 concluded, and we also have two periods of public
2 comment.

3 Those do not have to be related to the
4 presentations made during the panels, but, if
5 possible, we'd like it to be related to the kinds
6 of information that we're really trying to
7 collect more information on, and the impacts, the
8 types of alternatives, we should be considering,
9 and the changes we have made as a result of input
10 received today.

11 So we look forward to your participation,
12 and than you again for being here. At this point
13 in time, I'd like to pass the mike to
14 Commissioner McAllister.

15 COMMISSIONER MCALLISTER: Well, thank
16 you, Lorraine, and I want to thank everyone for
17 being here. Looks like we have good attendance
18 so far, and I think we're expecting a robust
19 discussion.

20 So I really want to thank you, Lorraine,
21 and Joe, and the whole team, and the compliance
22 branch, and, of course, Mike Sokol, the director
23 of the Efficiency Division, and Corrine Fishman,
24 who's keeping track of our time lines, and Elise,
25 the court reporter. So thanks for the whole

1 team, definitely a big team effort to put
2 something like this together, and, of course, all
3 of our panelists.

4 I think, as Lorraine said, you know, this
5 is a -- today we're considering the updated
6 proposal, staff proposal, for the HERS regs, the
7 field verification diagnostic testing, which have
8 responded to many of the comments that we heard,
9 you know, to date, and so this modified proposal,
10 the subject of today's workshop, is going to
11 really drill into some of the key areas that
12 we've heard about, and so the panel structure is
13 reflecting that, provider perspectives, and small
14 rater company and large rater company
15 perspectives, and really bringing that
16 conversation to the fore, and elevate it, and
17 really dig in and, you know, make sure that we're
18 building a record on substance based on input
19 from the key -- from key stakeholders, the ones
20 on the panels, and also just all of your comments
21 coming in over time.

22 So just a reminder that comment period is
23 until June 30th, so a little bit of time, here,
24 and I think that's the right -- I'm sorry.
25 What's the -- maybe I'm getting that date wrong.

1 What's the comment period, Lorraine?

2 MS. WHITE: Thank you, Commissioner.

3 COMMISSIONER MCALLISTER: Sorry, sorry,
4 sorry. I got the wrong date.

5 MS. WHITE: Yes. No worries. The staff
6 report was published two weeks ago. We're giving
7 a 30-day period for comments, so two weeks from
8 today will be the close of the comment period,
9 and we look forward to --

10 COMMISSIONER MCALLISTER: Okay. Right.
11 So two weeks. Friday the 23rd, I guess that
12 would be, then.

13 MS. WHITE: Yes.

14 COMMISSIONER MCALLISTER: Sorry. I was a
15 week behind, here. So I didn't want to cut
16 anybody off. Sorry about that.

17 MS. WHITE: No worries.

18 COMMISSIONER MCALLISTER: But, in any
19 case, comments are welcome whenever they come in,
20 and so, you know -- but sooner is better, and,
21 you know, just want to make sure that there's a
22 clear process that's establishing a record. The
23 docket, as Lorraine said, is incredibly
24 important. We make decisions based on what we
25 know, and so we, you know, can't make decisions

1 on stuff that has not been said or put into the
2 docket.

3 So I think, in -- I do want to say, you
4 know, this. We're at a point, I think, where
5 we're really beginning to make progress on
6 difficult issues, but this is not a new activity.
7 I sat down with the Energy Commission in 2012,
8 and shortly thereafter, we had a complaint
9 process.

10 Commissioner Douglas and I partnered on
11 that, and we had, you know, really, I think, an
12 elevated -- we developed an elevated
13 understanding of some of these issues, and it's
14 been kind of -- sort of percolating since then,
15 but there have been lots of ongoing discussions,
16 informally and, increasingly, formally, about,
17 you know, the need to update these regulations.

18 So I want to just highlight that this has
19 been a long time coming, and it's not a new idea.
20 So we're executing on what we understand is an
21 urgent need, and I want to just talk a little bit
22 about, you know, why it's an urgent need. I
23 mean, HERS, the HERS system, is incredibly
24 important to get compliance with the Building
25 Code.

1 So there are -- there's the big focus on
2 new construction, obviously, and there is, I
3 think, an ongoing set of issues around existing
4 buildings, particularly HVAC changeouts, but
5 smaller projects in existing buildings that do
6 require a permit, that really need to follow the
7 HERS process to ensure that those are quality
8 installations that really delivering for
9 consumers.

10 In my world -- and many staff at the
11 Commission are working hard on this -- we are
12 going to be rolling out big programs, and pushing
13 a lot of resources into existing buildings, and
14 compliance with the code will be requirement for
15 participation in those programs, and receipt of
16 state and federal subsidies, and so the system
17 has to work.

18 It can't just be, you know, an added cost
19 that, you know, can't slow things down, that
20 can't -- you know, we really need to make sure
21 that the system is up to the task of the volume
22 that we're going to see through these various
23 programs over the next, you know, few years. So,
24 you know, usability and effectiveness both have
25 to improve, in our view, and that's the point of

1 this.

2 You know, we certainly don't intend to
3 eliminate the HERS program. We intend to make it
4 both function better, deliver for consumers, and
5 be more usable, and, hopefully, lower costs. You
6 know, we're not -- we shouldn't be in the
7 business of imposing costs on the marketplace
8 without, you know, a pretty clear consumer
9 benefit, and so the whole idea here is to find
10 that balance and achieve all these goals.

11 Digitization and modernization is
12 absolutely part of this mix, and so, as we move
13 forward with this, with this update, I really
14 would appreciate people letting us know what
15 they're already doing on that front, what
16 technology, what process improvements, what
17 approaches can help reduce the transaction costs
18 associated with compliance and, in particular,
19 the HERS system of compliance.

20 We want to really try to help set a
21 foundation that really can be with us for the
22 long term, and so I think all of us have a vested
23 interest in having it work for consumers and
24 having the -- you know, having much more
25 comprehensive permitting on the changeouts, and

1 ensuring that our carbon reduction goals actually
2 can be met, and that we know they're being met,
3 and we can actually document that they're being
4 met. Consumers will benefit from that, and we
5 also will know that we're -- you know, where we
6 stand with respect to our climate goals.

7 So, let's see. So those are -- that's
8 mostly what I wanted to say. I guess, you know,
9 this is a dialogue, and, you know, we understand
10 there are a lot of actors in the system. You
11 know, a lot of people touch projects. Projects
12 need to be well conceived, well implemented, and
13 the code needs to be enforced.

14 So our goal at the Energy Commission is
15 to create a tool that is highly usable and
16 cost-effective, and it clearly demonstrates
17 benefit for consumers, and so, balancing all
18 those, it requires a lot of participation, and
19 that's why we have these processes. That's why
20 we do things in the open, based on, you know, the
21 facts out there.

22 Policy drives a lot of these discussions.
23 You know, we're going towards our climate goals.
24 So we want to create a structure and a system
25 that allows this to happen in the most effective

1 way, and so, to the extent there needs to be, you
2 know, flexibility, to the extent that there are
3 particulars of how the marketplace works that we
4 need to know in order to help get us to the
5 point, a system that really functions well,
6 please just participate.

7 You know, all this is really depending on
8 everyone's good faith, to bring their hard-won
9 knowledge into the mix and bring it to this
10 conversation. This is, you know, really an open
11 process that depends on all of you experts to
12 inform the Commission and help us make decisions,
13 and when we're getting it wrong, we want to hear
14 we're getting it wrong, and when we're getting it
15 right, we want to hear, "Yes, that's exactly
16 right."

17 So staff is working really hard to find
18 that balance and to get it right, and so I just
19 want to -- I want to support this process and
20 really, you know, be both muscular in terms of
21 getting where we need to go, but also being
22 accountable for the structure that we put in
23 place as the Commission.

24 So that's our commitment. I know staff
25 lives that every day, and we all just want to

1 hear folks' highest and best thoughts about how
2 the system can work going forward, and how all
3 the different stakeholders, from the consumer002C
4 contractor, you know, supply chain actors, the
5 HERS providers, you know, the rater companies,
6 the raters themselves, and the state as a whole
7 can benefit from the system that we're reforming
8 here.

9 So, with that, I'll wrap up my comments.
10 Thanks for listening and for being here, and
11 really just -- I will be in and out. I have a
12 couple other meetings I need to attend to during
13 the course of the day, but I certainly will be
14 keeping track of this and listening when I can.

15 So thanks, everyone, for your attendance,
16 and I'll hand it back to you, Lorraine.
17 Appreciate your being the master of ceremonies
18 here. Appreciate that.

19 MS. WHITE: Thank you so very much,
20 Commissioner.

21 At this point, we would actually like to
22 have Joe Loyer do our staff presentation, going
23 over the changes that we've made to the staff
24 report and the proposed regulations in response
25 to the input that we've received to date, and

1 again I would like to thank everyone who is
2 providing input to this process. Your thoughts,
3 information, data is extremely valuable to us,
4 and so we encourage folks to continue to do so as
5 we go through this dialogue on the improvements
6 we'd like to make to the program.

7 With that, Joe?

8 MR. LOYER: Just a quick check.

9 Everybody can see my screen? Yes, we can? Okay.

10 I am Joe Loyer from the California Energy
11 Commission. I'm a senior mechanical engineer.
12 This is a presentation that we have been working
13 on for some time now, and I'm actually very
14 grateful for everybody to be here and to share
15 this information with you.

16 The first thing we want to discuss, real
17 quick, is where we are in the process. This is
18 the Title 24 FV&DT -- that's field verification
19 and diagnostic testing -- rulemaking process. We
20 are currently in pre-rulemaking, so we're not in
21 formal rulemaking yet.

22 As you can see, we've gone through an
23 extensive process here. Our last element in
24 pre-rulemaking is going to be this workshop
25 today. We will conclude this workshop, and then

1 we will have the end of public comment period for
2 the staff report. From that point, we will
3 develop a final staff report. If you have
4 noticed, the staff report has been called a
5 "draft staff report."

6 So, after this point, we will develop the
7 final staff report, and that will move into
8 rulemaking. The rulemaking that we're talking
9 about there is the more general rulemaking for
10 the Title 24 process, so this is Title 24, Part
11 Six, rulemaking for the Energy Code for the 2025
12 rulemaking.

13 So the revisions that we made to the
14 draft staff report, these were based on a lot of
15 the comments that we did get, and pointing us in
16 various directions, bringing up various issues,
17 and we took those into consideration. Actually,
18 it was very informative.

19 So the first here (indicating), this is
20 the list here of everything that we have changed,
21 so the project -- the program name, allowing a
22 rater to be hired or paid by the contractor, the
23 72-hour limit to register compliance documents,
24 rater shopping, what we are calling a "verified
25 rater," which I will be discussing each one of

1 these momentarily, and then more detailed
2 training requirements was requested, and being
3 able to use photographic evidence was suggested.

4 The areas that we didn't change, or
5 didn't change very much -- we may have corrected
6 one or two things -- they were the regulatory
7 alignment, that is, essentially moving these
8 regulations from Title 20 to Title 24. The
9 progressive discipline requirements for raters,
10 for rater companies, and for providers, and the
11 quality assurance process, those did not change
12 substantially.

13 So the first thing that we'd like to talk
14 about is the program name change. So the name
15 that we're going to be recommending is the Energy
16 Code Compliance Program.

17 The Energy Commission has changed the
18 program name from Field Verification and
19 Diagnostic Testing, or FV&DT Program,
20 because -- for a lot of reasons. It's not
21 a -- it's kind of a clumsy name. The Energy Code
22 Compliance Program, that is based on comments and
23 suggestions that we received, and we feel this
24 name actually conveys the goals of the program
25 better.

1 Existing providers and raters, and rater
2 companies, can maintain the existing nomenclature
3 that they're using, that is, "raters,"
4 "providers," and "rater companies," and you can
5 maintain the use of "HERS raters," "HERS
6 providers," "HERS rater companies," if you so
7 desire. We aren't going to put that into code,
8 but we are going to put that into the explanation
9 of what we are enforcing and how we are
10 enforcing.

11 So, in particular, I think this actually
12 addresses a lot of the comments that we did get,
13 in unexpected impacts that were not intended. We
14 do want to make a differentiation between what is
15 the Whole House Program and what is the Energy
16 Code Compliance Program, and we believe that this
17 absolutely does that.

18 So, the rater being paid by the
19 contractor. So we had a -- this is probably the
20 most commented aspect of our proposed
21 regulations. So, based on many comments, the
22 Energy Commission has eliminated the homeowner to
23 hire mandate.

24 Now, although there were many supporters
25 of this requirement, in the end, staff agreed

1 that this change would cause a significant impact
2 to the current business practices of the rater
3 community. However, we strongly encourage raters
4 and rater companies to align their business
5 practices to favor direct hire by consumers,
6 which is still allowed.

7 The homeowner to hire mandate has been
8 replaced by two requirements. A consent form
9 signed by the building owner must be registered
10 with the provider prior to commencing FV&DT
11 activities at the residence. The rater must
12 issue the building owner a summary of the tests
13 performed, indicating the results in terms of
14 pass or fail. Now, that is not to say that that
15 summary is a document that is a proof of
16 compliance.

17 The consent form will be developed by the
18 Commission in concert with providers and some
19 raters, since it must be registered. Registering
20 a document for -- any document with the providers
21 actually comes with a slightly higher lift than
22 just storing a PDF. The data that is on the form
23 must be stored as data. So it is a significantly
24 higher bar. The only changing elements on this
25 consent form will be the consumer's name,

1 address, and project address, as well as the
2 rater's information.

3 Other than that, the information that
4 will be the same is an introduction to the
5 program, you know, what they can expect, what
6 tests are possibly being run, and how they can
7 submit a complaint or how they can volunteer for
8 their homes to be QA-ed.

9 Now, the summary will not be registered.
10 Instead, it will be developed by each rater or
11 rater company with some broad informational
12 requirements from the Energy Commission. Staff
13 used this summary as a means for the rater or
14 rater company to distinguish themselves in the
15 marketplace. Their report may be provided
16 through the contractor or other project
17 representatives to the building owner or project
18 owner, but it must be a conspicuous and separate
19 document from other documents provided by the
20 contractor or project representative.

21 So the rater can use a number of
22 different paths to get this summary document into
23 the hands of the homeowner, but it is still the
24 rater's responsibility to do so. While staff has
25 determined that requiring disclosure of what the

1 rater or rater company will charge for these
2 services is an over-reach of our authority, staff
3 does encourage raters and rater companies to
4 include the cost information.

5 So, the 72-hour limit for registration.
6 So, based on comments received, it was pointed
7 out that, in many instances, the proposed daily
8 limit would be problematic for legitimate rater
9 activities, most notably for housing
10 developments, both large and small.

11 Therefore, the Commission has eliminated
12 the daily limit for document registration, which
13 we set at 15, in favor of a 72-hour limit from
14 the actual date of the field verification
15 diagnostic testing to the actual registration
16 date. So, once you test in the home, you have
17 three days to register the document. All
18 compliance documents will include a date of
19 actual FV&DT testing, as well as the existing
20 date for the document registration.

21 During the desk audit, the provider will
22 verify that the audited documents comply with the
23 72-hour limit. As an alternative consideration,
24 it is also possible that providers may implement
25 an automated restriction to enforce this

1 requirement when the document is being registered
2 in the first place, but that's a discussion that
3 we may have with the providers to see if this is
4 something they want to automate.

5 So, rater shopping. The Energy
6 Commission has known about this issue of rater
7 shopping for some time. Given the significant
8 changes being proposed, the Commission chose to
9 address rater shopping at a later rulemaking.
10 However, there were many comments from raters and
11 others asking that the Energy Commission include
12 solutions to address this issue in the current
13 rulemaking.

14 So rater shopping typically occurs when a
15 rater has issued a failed FV&DT test on a
16 project. In most cases, the rater does not go to
17 the extent of registering the failed test, opting
18 instead to work with the contractor to fix the
19 issue.

20 Instead of working with the rater,
21 however, to remedy the issue, the contractors
22 sometimes hire a second rater to submit
23 compliance documents without testing at all.
24 Considering the records available to the
25 Commission staff, this most often happens with

1 QII inspections, but has happened with most of
2 the FV&DT tests.

3 The Commission has added requirements to
4 help prevent rater shopping by establishing a
5 rater of record, or ROR, when a failed field
6 verification and diagnostic testing is
7 registered. So the rater does have to actually
8 register the failed test for this to work.

9 Only the ROR can register a passing test
10 after a failed test has been registered. In
11 limited circumstances, the provider may replace
12 the ROR with another rater, but must include a
13 shadow audit for the project when doing so.

14 So, verified rater. The Commission has
15 introduced the concept of the verified rater, who
16 will received less quality assurance audits, once
17 a code cycle instead of once a year, due to their
18 proven reliability via passing all their required
19 quality assurance audits for the past 12 months,
20 and experience, which we're putting at a minimum
21 of five years.

22 The providers who will -- the providers
23 will identify who of their raters are verified
24 raters, and report that to the CEC during the
25 annual quality assurance reporting, and this was

1 an actual suggestion from one of our providers.

2 So, additionally, providers wanted to
3 have more detailed training requirements, and
4 what we came up with was a lot more information
5 about exactly what is to be provided in training,
6 and this (indicating) is our -- basically a
7 bullet list of the subject matter, so the
8 Building Energy Efficiency Standards,
9 particularly RA1 through 4, NA1, NA2, and the
10 nomenclature associated with the building
11 standards and the test, the roles and
12 responsibilities of all parties, Energy Code
13 basic building science concepts, worksite safety,
14 instrumentation setup and care, and equipment
15 certification requirements, compliance forms and
16 registration, professional conduct, resources,
17 and progressive discipline, quality assurance,
18 and conflict of interest requirements.

19 Photographic evidence. So several
20 comments were received that recommend that the
21 Energy Commission provide a means to register
22 photographic evidence with the provider data
23 registry. Staff was waiting to consider this
24 issue in subsequent rulemakings, but it is
25 providing the means to store photographic

1 evidence in the provider data registry by adding
2 these requirements to a new section in Joint
3 Appendix JA7, that is, JA7.5.6.1.

4 You can see the requirements here
5 (indicating) that we're suggesting. The
6 photographs are not to be issued with registered
7 compliance documents. They can be registered
8 with the compliance documents, but they're not to
9 be issued with the compliance document, must be
10 stored by the provider as a JPEG, must show the
11 specific equipment being tested, must include
12 specific background to identify the location of
13 the project site, and must include a time stamp
14 and location stamp.

15 This (indicating) is basically the
16 reminders of the events that are coming in the
17 very near future, and to put is in the proper
18 frame here. The first element is, of course, the
19 publication of the FV&DT revised draft staff
20 report that happened at the end of May. June
21 9th, that is our third FV&DT workshop.

22 The publication of the FV&DT final staff
23 report we expect in July. The 2025 Title 25
24 Energy Code pre-rulemaking workshops will be from
25 July to September 2023. We will have at least

1 one workshop.

2 I can't specify the exact date yet, but
3 we will have at least one workshop during that
4 pre-rulemaking period for Title 24, the 2025
5 Title 24. The formal 2025 Energy Code rulemaking
6 will start in January and go through June of
7 2024, and the adoption of the 2025 Energy Code is
8 expected June 12th, 2024.

9 Finally, we have some resources we want
10 to make sure everybody has access to, and, of
11 course, this presentation has been posted to the
12 Energy Commission website. In fact, if you see
13 at the bottom here, to follow the pre-rulemaking
14 and rulemaking process, that link, the rulemaking
15 website, is where it is located.

16 We're including resources including the
17 Title 20 rulemaking, which is separate from the
18 Title 24 of the FV&DT pre-rulemaking. They are
19 on separate tracks and timelines, but are
20 related.

21 There are several resources listed here.
22 The first are the links to view the submissions
23 to the docket for the Title 20 HERS rulemaking
24 and the Title 24 pre-rulemaking, and that's just
25 to view the docket.

1 Second are the links to submit a comment
2 to either of these dockets, as well as a link to
3 the application process for submitting a
4 confidential comment, so you can submit
5 confidential information to the Energy Commission
6 for this process. These confidential comments
7 will be listed in the docket, but they will not
8 be accessible to anyone but the Energy Commission
9 staff.

10 The third link is the Energy Commission
11 rulemaking website that includes the Title 20
12 HERS rulemaking and Title 24 FV&DT pre-rulemaking
13 documents.

14 With that, that is the end of my
15 presentation, so I will pass this back to
16 Lorraine.

17 MS. WHITE: Thank you, Joe.

18 At this time, we'd like to actually start
19 our first panel, and we have with us
20 representatives of the three -- pardon me -- of
21 the two approved providers, and of an
22 organization that is currently applying to be a
23 third provider. We have Shelby Gatlin with
24 CalCERTS, who is joined by David Choo. We also
25 have Rob Starr from CHEERS, and Jonathan Johson

1 from Golden State Registry.

2 We appreciate and are very happy to have
3 you guys join us. When you speak, if you could
4 give a little bit of background about yourself,
5 your organization, and begin your remarks.

6 We'll start with Shelby and David with
7 CalCERTS.

8 MS. GATLIN: All right. Thank you so
9 much. Can you hear me?

10 MS. WHITE: Yes, we can. Thank you.

11 MS. GATLIN: Great. So David is going to
12 drive our presentation here. Thank you,
13 everybody, for having us this morning. We
14 appreciate the opportunity to participate in this
15 workshop.

16 David, if you'd go to the next slide,
17 that would be great.

18 MS. GATLIN: So, about a week ago, last
19 Friday, the Commission asked us to look at these
20 questions for today's workshop, so what other
21 existing issues are not reflected in the staff
22 report, and then alternative approaches to what
23 the CEC should consider with their proposals, and
24 the impacts and costs associated with their
25 proposals.

1 So we've been working through the staff
2 report that came out about 10 business days ago,
3 and it's pretty long. So we're working through
4 those, and there's over 40 pages of regulations.
5 So I need to caveat that our comments today
6 really are preliminary as we work through that
7 report.

8 David, can we go to the next slide?

9 Before we get into trying to answer those
10 questions, I do want to thank the Commission for
11 the rulemaking process. I want to specifically
12 thank the Commission for changing the language in
13 the Title 20 rulemaking that's happening in
14 conjunction with this rulemaking, and to change
15 the language so that the HERS program is not
16 repealed before we finish the Title 24
17 regulations. CalCERTS advocated for that. A lot
18 of raters spoke up, and the Commission listened,
19 and so thank you for that.

20 Also in this revised staff report, the
21 Commission did change some of the conflict of
22 interest assumptions. A lot of raters spoke up
23 and advocated for themselves to be able to
24 continue to provide services that were perceived
25 as conflicts. So we're appreciative of that.

1 But, most importantly, the Commission did
2 a rewrite of some of the language in the staff
3 report to better reflect rater integrity. So
4 they changed the language to indicate that it is
5 the small handful of raters who are bad actors,
6 and that there are hundreds of highly qualified
7 professional raters working with integrity. So
8 those language changes in the staff report are
9 really important, and we appreciate the
10 Commission listening and making those changes.

11 Great. Next slide. Okay.

12 So what do we think is not kind of being
13 considered here? These are kind of high-level
14 ideas that we want to throw out there. So the
15 first is that HERS is and has always been a very
16 collaborative program. The DRRM, which is like
17 the rulebook for the registry, has only even been
18 around for a few code cycles.

19 Once the code is approved, that's really
20 when the Energy Commission engineers and
21 contractors work with the providers to implement
22 the forms and work through all the minutia, and
23 so Hugo, our director of IT, spends hundreds and
24 hundreds of hours working with Commission staff
25 to try to check the forms and fix the variables

1 that actually stop the industry in the field when
2 things aren't working.

3 And so all of the raters know that. They
4 felt that, and they come to us to help advocate
5 with the Commission and with the building
6 departments, but that collaboration is really
7 important, and I'm not sure that folks understand
8 that those forms change multiple times a code
9 cycle. There are approved revisions to all of
10 the forms, and then sometimes we come across
11 problems. There's changes daily to those forms.

12 So it's a highly collaborative program,
13 and, up until a few years ago, it used to be
14 really collaborative relative to quality
15 assurance. So we need that collaboration for
16 this rulemaking, but we also need it as
17 recognized as part of the program going forward,
18 and I think Commissioner McAllister was talking
19 about it this morning.

20 The next thing that seems to kind of be
21 missing are real elements to help raters in the
22 field. So the raters need Commission support,
23 whether that's working with the AHJs or with the
24 CSLB. There is an opportunity here for more
25 support for raters, and I think one of the things

1 Commissioner McAllister talked about this morning
2 was the difference between new construction and
3 alterations or existing homes.

4 There is different ways that the
5 Commission could come out to help those kind of
6 different industries by supporting the raters.
7 They were talking about proposals relative to
8 building owners, homeowners. That's going to be
9 very, very different for existing homes versus
10 what we would see in the new construction
11 marketplace, so weaving in some tools to help the
12 raters be supported by the Commission.

13 Then I think the third thing that really
14 comes out that needs to be part of this
15 rulemaking is that the Commission needs data.
16 The Commission needs to be able to look at the
17 data and, as Commissioner McAllister said,
18 quantify the goals and benefits of this program,
19 to be able to see the hard work that the raters
20 are doing.

21 So on the books for a long time has been
22 the mandate for the Commission to have the
23 document repository, and the Commission needs to
24 build that document repository. There was an
25 opportunity or an effort to have the report

1 generator collect data from the forms, and when
2 that failed, the Commission kind of pushed that
3 onto the providers, but in this rulemaking, we
4 really see that the data is essential. So I
5 would like to support however we can in this
6 process to be talking about building the document
7 repository.

8 All right. David, next slide.

9 Okay. Staff proposals. I'm going to
10 stop talking as fast as I can, and give it over
11 to David to talk about some of the staff
12 proposals. Again, we're going to kind of come at
13 this at a high level, but a few that jumped off
14 the pages were the QA program, the conflict of
15 data regulations, and the rater of record.
16 There's a lot of effort here by Commission staff
17 to try to address these programs and these
18 policies, and we think there's been some good
19 work.

20 We also think there's some significant
21 unintended consequences that need to be addressed
22 in the language that is being proposed, and so
23 David is going to talk about some of the minutia
24 of that, but, you know, something like rater of
25 record, you know, that could be changed to maybe

1 rating company of record, to allow some
2 flexibility to actually get the work done.

3 And I think, as far as the rater
4 community speaking up and the providers speaking
5 up here, we really need to be able to share with
6 the Commission what stops the work in the field,
7 what becomes unpracticable, and what really
8 impacts the entire industry and costs everybody
9 from the builder or the installer or the
10 homeowner or the consumer substantial time and
11 money.

12 All right. Let's go to the next slide,
13 David.

14 All right. Costs and implications. So
15 CalcERTS and CHEERS met last week to kind of work
16 through some of the costs and implications of the
17 proposed rules, and in doing that work, we gave
18 some feedback to the Commission on the Appendix C
19 on the costs, but, in looking at the 40-plus
20 pages of regulations that are being proposed,
21 there's a lot of work that needs to be dialed
22 into, the word choice, the language of those
23 regulations, so that we can do that cost
24 assessment. We need clarifications. So, with
25 the next proposals, one of the things that's

1 being implemented is that the providers are going
2 to regulate rating companies.

3 So what really actually counts as a
4 violation by a rating company? Let's get those
5 clarifications. Let's get some examples, and
6 then context for the new proposals, like where
7 did these ideas come from?

8 So, conflicted data. One of the
9 proposals is that the providers would need to
10 purge conflicted data from the registries. Okay.
11 What happens? What happens to that information?
12 What happens to that work product? What happens
13 if a permit has been closed? We just need to
14 kind of talk through the context of where these
15 proposals are coming from, and kind of the origin
16 of them, so we can do the cost assessments.

17 And then data and information. Those
18 providers have expressed to the Commission and to
19 Commissioner McAllister that we are willing and
20 able and want to provide real data and
21 information to help quantify the costs and
22 impacts of what's being proposed. You know, out
23 of the gate, I think the Commission worked really
24 hard to try to save money on quality assurance,
25 but the proposals that have been given are far,

1 far most expensive than our existing programs.

2 So we really do want to be a part of a
3 conversation to work through that, that data
4 analysis, and so, if this is the last draft
5 report before the Commission goes to a final
6 report, which then will be the basis of the new
7 regulations, I would really appreciate the
8 opportunity to sit down and have more
9 conversations about those regulations that are in
10 Appendix B to the staff report.

11 All right. I talked as fast as I could,
12 to kind of get through our time, so I'm going to
13 hand it over to David to talk about some of those
14 key proposals that we were able to pull out of
15 what's been presented. Thank you so much,
16 everybody, for allowing us to participate today.

17 David, are you --

18 MR. CHOO: Great. Hey, everybody. My
19 name is David Choo, and I'm the compliance
20 director at CalCERTS. You know, we felt it
21 appropriate to give everyone a little bit of
22 context, right, a bit of history as to why these
23 proceedings are happening in the first place.

24 So, flip back in time. From 2011 to
25 2016, CalCERTS is one of two HERS providers

1 active in California, right? The other one was
2 Usera (phonetic), right? Now, at that time, the
3 original CHEERS had been deactivated. Now, back
4 in 2011, a complaint was filed on us, alleging
5 that we didn't provide due process. So, in
6 collaboration with the CEC, we created the QA
7 program that we've enforced ever since.

8 It's kind of a funny bit of history, but
9 a lot has changed since 2011. The QA program
10 that we created with the CEC, it's had a really
11 significant impact on improving the accuracy of
12 ratings. It's funny that that complaint went
13 such a long way into shaping how everyone stays
14 accountable today.

15 Now, I mean no disrespect to the CEC with
16 the title of this page. I'm a big fan of the
17 folks at the CEC. You know, I can see that a
18 great deal of work went into these proposed
19 regulations, and it's obvious that the CEC is
20 trying to help. I'm simply pointing out what we
21 found from our point of reference as a provider.

22 All right. So, first, the investigations
23 this rulemaking is based on were not on CalCERTS'
24 project. I just wanted to clear the air about
25 that. They're not on us. The rest of the

1 investigation, however, points at the idea that
2 QA practices are inconsistent.

3 In 2020, in the spirit of collaboration,
4 we provided an 85-page-long kind of basic
5 introduction to our Create (phonetic) program for
6 the CEC, and it clearly lists what we do, right,
7 our steps in due process, auditing tools, our
8 blind field audit process, how we communicated
9 with raters, basically.

10 Then, at the request of the CEC, we
11 followed that up with a 28-page document
12 explaining our process of decertification, and
13 what were the steps, and how do we figure out if
14 the rater was being truthful, right, and
15 accurate? It's great, because it looks like some
16 of that manual was incorporated into the
17 rulemaking, but, you know, we feel like some key
18 elements that would be essential weren't included
19 in the proposed rules.

20 Now, you know, if we take a step back
21 from all of it, right, all of this, and just
22 look, you know, we consider consumer complaints.
23 You know, we find that they're actually quite
24 limited, right, at least in our experience. In
25 the last six years, we've received 20 legitimate

1 complaints on raters. So, you know, to put that
2 into context, we're talking one complaint in
3 every 20-some-thousand ratings. I mean, that's
4 like .004 percent.

5 You know, frankly, I think that's pretty
6 impressive. I feel like the CEC and all of us
7 should really be patting ourselves on the back,
8 right, like, "Well done. Bravo."

9 So, you know, we also believe that some
10 of the data used as a basis for those rulemaking,
11 it wasn't evaluated in context, or it may not
12 have been, right?

13 For example, the Investigation Report
14 2-06, it basically states that, the majority of
15 document registration, the data recorded was
16 identical between CF2R and CF3Rs, and the staff
17 report -- maybe I'm misreading it, but it almost
18 made it look like it was evidence of collusion or
19 something, and the fact is, it's simply how it's
20 designed to work, right? I mean, it doesn't
21 point to bad actors or someone cheating. In the
22 code, it states:

23 "An installer or builder may use
24 the rater's test results to
25 complete the certificate of

1 installation."

2 So, you know, from our standpoint, it's
3 just how it's designed.

4 Now, let's talk about what has worked.

5 You know, we've conducted thousands and thousands
6 of blind field QA reviews across the state of
7 California, right, close to -- I think, at this
8 point, we've done 10,000 or something, on likely
9 every conceivable type of project there is, and I
10 bet that most raters are pretty familiar with our
11 e-mails, right, explaining our findings. You
12 know, so ask yourself as a rater, "Have you
13 received those from other providers?"

14 So what I'm pointing at is, you
15 know -- what I'm talking about is creating a
16 process that we should all follow together,
17 right? You know, I believe that blind QAs work,
18 because the raters don't know what project will
19 be QA-ed, right? These audits give the provider
20 a clear understanding of what's actually
21 happening in the field, because they're blind,
22 right? There's no one to influence what we see.

23 So the problem with blind QAs is that, if
24 they're not being done by all providers, it
25 doesn't work, right? So, you know, we've found

1 over the years that, when we discipline, the bad
2 actor disappears from CalCERTS, right? We don't
3 see them again, but we know they're still
4 working.

5 So, you know, from our extensive
6 experience, the blind field QA, it's really the
7 most meaningful and definitive way to check on
8 the quality of rater work, and that includes desk
9 reviews and data audits, and they're another
10 great way to track rater performance, you know.

11 So what hasn't worked? Well, shadow
12 audits, right? The idea of QA shadowing or being
13 present during a HERS inspection, we've done
14 quite a few of these. You know, the majority of
15 time we do them, it's when we find something
16 wrong in a blind QA, right? So we do them to see
17 if it's an education issue.

18 What we found, usually, you know, with
19 unethical raters is that they know what they're
20 doing. They're actually quite good at it.
21 They're just choosing to let things pass, and
22 really, in a shadow audit, what rater is going to
23 kind of, you know, falsify their test results in
24 front of your face, right? So, you know, the
25 same thought process kind of applies to in-lab

1 audits, right? If the goal is consumer
2 protection, we don't think these audits will make
3 a meaningful improvement in the program.

4 The other thing -- you know, when I read
5 this proposed language, a question immediately
6 came to mind, like, what happens if a rater is
7 working with multiple providers? Does that mean
8 they have to do this with every provider, every
9 year?

10 So, in our experience, shadow audits,
11 in-lab audits, have been an appropriate tool,
12 when they're used the right way, but they fall
13 really far short of the gold standard of the
14 blind QA. You know, they also make the proposed
15 QA program much more expensive, which I don't
16 think the CEC every intended to do. I think they
17 were just trying to help.

18 Now, with the proposed rules, right, as
19 they're written today, they create some
20 significant hurdles that have the potential to
21 disrupt our industry. Now, we only bring these
22 up because we're just looking for more
23 explanation, and really to start a dialogue on
24 what they mean. So the concept of conflicted
25 data is probably at the top of the list, right?

1 The proposed language appears to say that
2 any rating recorded in a situation where there is
3 a conflict of interest or falsification needs to
4 be removed, right? So Shelby kind of touched on
5 this. The question has come up, right? Does a
6 permit that was closed become active again,
7 right? If a home is in escrow, does it stop a
8 sale, right? Are certificates occupancy rendered
9 invalid, and who is going to be liable for all of
10 this?

11 And then there's a sampling in conflicted
12 data, right? According to the proposed language,
13 a QA must occur every seventh sample group. It
14 means everything has to stop until it's been
15 QA-ed, and if that QA is refused, then every home
16 in a project has to be retested. Like, whoa,
17 right? If you take a step back, whoa.

18 Now, I think it's awesome that the CEC
19 wrote language that gets QA in there, and that's
20 exciting to me, but the way it's written, to me,
21 is just a little bit scary, right?

22 Now, there's more to the language that
23 made us pause, but this would be at the top of
24 the list. Again, we just want to start a
25 discussion about our concerns.

1 So, you know, what would help? Frankly,
2 we recommend that the current QA program simply
3 be enforced equally between all providers, right,
4 and at the same time make the requirements more
5 attainable, you know. So who and why we QA, I
6 think, is more important than how much we QA,
7 right?

8 You know, we support the idea that, when
9 a rater decertifies or suspends a rater, that all
10 providers must suspend and investigate that
11 rater. That makes complete sense to us, right?
12 We support that raters undergoing disciplinary
13 review at one provider can't just jump ship,
14 right, and apply to work at another one. I mean,
15 their track record should follow them.

16 Now, we also support of the verified UCC
17 (phonetic) rater. We've actually maintained a
18 similar standard for years, and we call them our
19 "exemplary raters," right? I think some of you
20 on this call know who you are. Well, the idea
21 behind it is that, you know, with what resources
22 we have, if we're given the opportunity to QA
23 someone we know is good, versus someone we think
24 might be bad, well, we'll opt to QA the bad guy,
25 right?

1 Instead of QA-ing the good guy over and
2 over and over again for the sake of hitting some
3 requirement, we want to focus our energy on
4 quickly removing the bad guy, right? Now, in
5 order to do that, something that would help is a
6 mandate for accurate project contact info, right,
7 so we can get these QAs scheduled. I mean, that
8 would really go a long way.

9 Now, something that has been severely
10 lacking in previous years, and I think that the
11 CEC is actually looking at this and trying to do
12 something about it, has really been the lack of
13 information about how the Energy Code works for
14 other stakeholders. All right. Now, providers
15 and raters, we know how this works, right,
16 because we do this every day, but everybody else
17 is lost, right? Now, HERS raters have become the
18 de facto trainers for everyone, right?

19 So part of the issue is the complexity of
20 the Energy Code, right? We need to simplify it.
21 I mean, I train AHJs regularly, and the biggest
22 complaint I get from building inspectors is "This
23 is really hard to understand," right?

24 And then the third bullet point,
25 collaboration. From our point of view, the most

1 important thing that can happen from today's
2 meeting is more collaboration, right, between the
3 CEC, rating companies, and providers. Let's dive
4 in together, right? Let's get real.

5 Providers and raters are the boots on the
6 ground. We know what works and what doesn't
7 work. The CEC is full of big brains, right?
8 They come up with ideas that, you know, that
9 they're -- but there needs to be more
10 collaboration. In order for it to work,
11 communication needs to go both ways just a bit
12 more. Let's start a conversation, right?

13 Now, as a reminder, you know, before I
14 end, it's one complaint in every 20-some-thousand
15 ratings. What I mean by that is that it's
16 working, right? This thing that we all created
17 together, I think it's working. There is
18 significant Energy Code compliance happening
19 throughout the state.

20 It's completely changed the face of
21 construction and how we do things, and, contrary
22 to how people may think or how it's been painted
23 by, you know, whoever, there are not a lot of bad
24 actors out there. We have a long list of raters
25 we know are great at what they do, and most

1 raters are just awesome.

2 You know, and add to that, we have to
3 realize that the HERS industry is probably 50 to
4 \$100,000,000 a year, if not more. You know, we
5 need to get this right, because there's a lot on
6 the line, not money, not just money, but really
7 the future of our great state and its residents.
8 We make a difference. So I say all this in the
9 hope that, you know, we can all work together to
10 create something great.

11 With that, you know, thank you for
12 listening, and thank you to the CEC for being
13 openminded and giving us the opportunity to
14 speak. And that's it for CalCERTS.

15 MS. WHITE: Appreciate it, David. Thank
16 you very much.

17 To stay on schedule, I'd like to just go
18 ahead and hand it to Rob Starr, who is speaking
19 on behalf of CHEERS. Good morning, Rob.
20 Welcome. If you'd just give a little comment
21 about you and your role in CHEERS, I'd really
22 appreciate it.

23 MR. STARR: Sure, sure. And if you
24 could, while I'm doing that little intro, Kevin
25 does have a item he'd like to share. So, if you

1 could look for him and unmute him while I'm going
2 through this first part, I'd appreciate that.

3 MS. WHITE: I certainly will, and we're
4 looking for Kevin. I see you.

5 MR. STARR: Okay. So my name is Rob
6 Starr. I will be the primary presenter today for
7 CHEERS, and I've been with CHEERS, the new
8 CHEERS, we'll call it -- now, most of you are
9 aware there's, you know, two version of CHEERS,
10 the old CHEERS and the new CHEERS, and so I've
11 been with this team since we started the new
12 version.

13 Previous to that, I was a HERS rater, and
14 I was certified by both old CHEERS and CalcERTS
15 as well. I was a HERS rater for them for many
16 years. And so, yes. So a little background on
17 me.

18 So, Kevin, if you are there and able to
19 speak, please go ahead and introduce yourself.

20 MS. WHITE: Go ahead and unmute, Kevin.

21 MR. KANE: My apologies. Thanks so much,
22 Rob, and thanks, Lorraine, for helping to get me
23 on line. Appreciate that.

24 So my name is Kevin Kane. I'm with
25 CHEERS. I oversee the operations and whatnot.

1 Thanks, Rob, for also calling out the old
2 CHEERS and new CHEERS, because I heard the
3 reference earlier with regards to some of CHEERS'
4 past, and we were decertified, I think, back in
5 the 2013 time frame, which prompted me to think,
6 "Yes, that's true," and one of the things I'm
7 telling -- most of the folks on the line know
8 about CHEERS.

9 In 2017, there was a complete revamp, the
10 technologies tag, that allows us to be a much
11 more modern platform, and that has afforded us
12 the opportunity to find integration opportunities
13 with different entities, to make sure we're a
14 little more streamlined, and we're just taking
15 advantage of the technologies available to us.

16 A little bit more about me, and briefly,
17 so I can lead into my comments. My background is
18 primarily technology. It's been about 28 years
19 in technology, doing a lot of different startups
20 and whatnot, but I have had extensive experience
21 in construction management on the commercial
22 construction side with two different entities,
23 one being acquired by Trimble, and the other is
24 around energy as well. I have an energy
25 efficiency collaboration platform that was

1 adopted by about 75 percent of the nation's
2 utilities.

3 So I am familiar with both markets, but I
4 am new to the HERS industry. I find it
5 fascinating. It's a great intersection between
6 construction, you know, with energy efficiency,
7 of course. But as I was going -- my timing of
8 joining this industry and CHEERS is interesting,
9 because I joined the very end of July last year.

10 So I'm coming up on my one-year
11 anniversary, and what a time to join this
12 industry, during this new code cycle, and the
13 amount of changes that I've heard from all is an
14 outlier. The amount of proposed changes that are
15 being done, while many are needed, it's an
16 outlier. We haven't had this type of destruction
17 in the market, ever.

18 So that forced me to kind of go back and
19 think, "Okay. What is the mission? What's the
20 mission of the HERS industry? What's our mission
21 as a provider supporting that HERS industry?" So
22 I just did a quick cursory review and took a look
23 at "What is the CEC's mission?" And, you know,
24 this is all available in the public domain, so I
25 encourage you guys to go look at the different

1 websites that I'm going to cite here.

2 What I've discovered with the CEC -- I'll
3 summarize this, because it's a lengthy discussion
4 on their "About" page, but essentially the CEC is
5 the state's primary energy policy and planning
6 agency, which makes total sense, and if we look
7 at the provider, for CHEERS, anyway, we
8 essentially just make the statement that we
9 document compliance with the requirements of the
10 California Energy Code.

11 So you see the alignment, obviously,
12 between us and the CEC, but the term I've heard
13 an awful lot since I've joined -- and I've had
14 discussions with staff as well, and a term has
15 come up quite frequently, referring to the
16 "Consumer Protection Agency."

17 That caused me pause, strictly because
18 we're all consumers, and I wanted to understand
19 if that's the mission, only because, since I've
20 been with CHEERS, we've been focusing on "How do
21 we help support the entire ecosystem, and how do
22 we leverage our registry to help provide
23 additional services to help them do their job
24 more efficiently, hopefully drive margins for our
25 different users, from the builders to the energy

1 consultant all the way down to the rater?"

2 But the consumer protection was not on
3 the radar screen, so I thought, "Okay. Where is
4 that? Where is that regulation? How are we
5 being held accountable for that?" Didn't find
6 much, and so I wanted to take a pause or pump the
7 brakes a little bit because, everything I've read
8 through so far, it seems as though the focus is,
9 and appropriately so, to make sure that the
10 consumer is getting the benefit of the energy
11 efficiency programs available to them, and the
12 contractors they hire are providing that type of
13 service in a way that's compliant with the Energy
14 Code.

15 So, then, who is the actual consumer
16 protection agency that we should be relying on to
17 help support that? Our job as providers is to
18 make sure that we support those raters any way we
19 can, and, as David went through on the QA side,
20 we're much aligned to a lot of the QA ideas.

21 We have done some collaboration with
22 CalCERTS. We believe that it's the future of
23 this industry, and we'd like to see how we can
24 leverage more technology to help provide even
25 better QA. So we take the role as QA very, very

1 seriously, but I also think it's equally as
2 important that we then hold accountable those
3 agencies that are designed to be consumer
4 protection agencies.

5 Again, just on cursory review, this is in
6 the public domain. The CPUC talks about how they
7 want to protect the consumer, and the Contractors
8 State License Board talks specifically about
9 being a consumer protection agency.

10 So it sounds like we have the
11 infrastructure. We have the agencies that are
12 available to then provide that type of service
13 and that kind of focus, and enable us, the
14 provider and the rater, to focus on what their
15 core competency is and what their core mission
16 is.

17 As a rater, let's make sure that the
18 installer and the builders be compliant with the
19 Energy Code, and as a provider, let's make sure
20 they're training, the QA is there, to make sure
21 that that compliance stays true.

22 Those are my comments. Thanks so much
23 for taking the time, and thanks, Rob. I'll go
24 back to you.

25 MR. STARR: All right. Thank you, Kevin.

1 So let me get into -- and I'd like to
2 start by, you know, just thanking CalCERTS again.
3 As Kevin mentioned, we have been spending some
4 time with them coordinating our thoughts on this
5 proposed language, and so maximize our time in
6 talking about different sections of the proposed
7 regulations so that you don't hear the same thing
8 twice, because there is a lot of areas where we
9 are in agreement.

10 So what I'm going to do is I'm going to,
11 you know, go through and share some of our
12 thoughts on some of these items. There will some
13 that's duplicative, but I'll keep those short,
14 just in the interest of time, and keep us on
15 track as much as possible.

16 So let's go ahead and let's talk about,
17 you know, conflict of interest. So, again, we
18 appreciate that staff has gone through -- they've
19 listened to the rater community. A lot of raters
20 expressed that "Hey. You know, I've been able
21 to -- because the contractor hires me directly, I
22 have that direct line to them. I have been able
23 to provide them with training and guidance, and
24 I've seen a positive impact to that." So, seeing
25 those changes, I know a lot of our raters are

1 going to be clapping their hands, saying, "Thank
2 you for supporting me in what I do," and we're
3 right along with that.

4 Now, to the proposed language, again,
5 homeowner education, homeowner education, letting
6 them know that they have an option, let them know
7 that that rater is there to really be a check on
8 that contractor, and is not just the buddy of the
9 contractor that is going to just come in and pass
10 things off, and off they go.

11 Now, how we do that, you know, there's
12 still some kinks that need to be worked out,
13 right? The language talks about a form, and the
14 language really didn't provide much insight. I
15 know Joe, during his comments, he was able to
16 provide a little bit more insight as to what they
17 envision that form to be, but we really do need
18 to have that discussion.

19 The term "register," we know what that
20 means as a provider. You know, that means that a
21 document goes through the report generator. It
22 gets a registration number. And how do we make
23 that work to where it's in a format where a
24 homeowner can get that document, they can review
25 it, they can sign it, but, if it's in the

1 registry, that's a challenge, and how does that
2 homeowner get in to sign it? Well, they'd have
3 to create an account. We'd have to approve that
4 account.

5 So this process, while we agree with the
6 overarching goal of it, it does need some
7 additional work, and definitions for, you know,
8 "form" and "registered," and how we're going to
9 do that.

10 Now, on that as well, this form has to be
11 registered at a specific time. Most of our
12 documentation that we currently have in the
13 registry doesn't include dates. You know, when
14 was the test performed? What time was the test
15 performed? We need those data points.

16 If we're going to be held accountable for
17 ensuring that this process takes place, we need
18 those tools and those data points, and the only
19 way you can do that is if they're built into the
20 forms that we currently have in the registry now.
21 So a couple thoughts, to keep that in mind.

22 Moving on to data, right, the registries
23 are -- they're huge databases, hundreds of
24 thousands of documents, millions of data points,
25 and that's a lot to work with. So I know, you

1 know, both us and CalCERTS, we provide -- or
2 employ several validation processes. Some of
3 those are built into the schema that the CEC has
4 put together for us to build our forms. Other
5 ones are just internal processes that we've had
6 to develop to ensure that, to the best of our
7 ability, that only compliant data is accepted
8 into the registry.

9 Now, I use the term "compliant data"
10 because we are hearing other terms, such as
11 "untrue" or "conflicted data." We can check for
12 compliant data. If we have a set of criteria
13 that that data must comply with, we can check for
14 that. Can we check to see if it's true or if
15 it's conflicted? I'm not sure how we would do
16 that.

17 So, you know, the language is also very
18 zero-tolerant. So, you know, for example, "UCC
19 providers shall not accept or store conflicted
20 data on their systems," I mean, to me, that's an
21 unreasonable requirement, simply because how do w
22 know, when that data comes in, if it's
23 conflicted?

24 So the concept that I'd like to, you
25 know, share here is that when staff, you know,

1 builds these requirements, is think about what
2 the providers are able to do. Adding a simple
3 word such as "knowingly" in front of "accept,"
4 "Providers shall not knowingly accept or store,"
5 that would be much more comfortable for us,
6 right, because, if we know it's there, and we can
7 be held accountable, then, great.

8 We can check for it. We'll put those
9 checks and balances in place, and we'll keep it.
10 Providers would never knowingly accept untrue or
11 conflicted data. That's just -- it serves no
12 purpose for us.

13 So, to kind of close that out, yes, we'd
14 just like staff to consider kind of the zero
15 tolerance nature of some of these requirements as
16 it applies to data.

17 Quality assurance. David has already --
18 with CalCERTS -- he already spent a fair amount
19 of time on QA, and I think we could both agree
20 that we could probably have an entire workshop
21 dedicated to just QA. So, again, I'll try and
22 keep this short, and touch on just some of the
23 highlights of it.

24 You know, what is the goal of the QA
25 program? Is it to hit a certain metric or quota

1 that's defined by the regulation, or is it to
2 address problem raters that are out there in the
3 market? You know, David was very clear on this,
4 and we're on the same page, right? It's to
5 identify and deal with those problem raters.

6 Now, I see that breaking up into two
7 categories, right? We have what I see as our
8 first and primary task, is to prevent bad actors
9 from continuing to operate in the industry. So
10 these are those folks that know how to do the
11 test, but choose or -- I mean, whatever reason,
12 expediency, greed, you name it -- they're going
13 to pass the test regardless of what their results
14 were. They'll make up the data. They'll get a
15 passing (sic), and they'll move on.

16 Those are the ones -- and there's not a
17 lot of them, but there are those out there are
18 doing that, and those are the ones that we need
19 to really focus our efforts on, and get them out
20 of the market.

21 Secondary to that is those that have, you
22 know, training issues, and I recently worked with
23 a rater that I know, because I speak with them
24 regularly, and they're asking me questions, and
25 they're trying to do a good job, and we found

1 some issues during a desk audit. We were looking
2 at the data, and we -- so I got with them, and,
3 you know, made sure that they understood what was
4 being done incorrectly. They took lots of notes.
5 They are going to make corrections. We're going
6 to follow up on that, make sure that's what's
7 happening, but those people exist as well.

8 So, to sum up, you know, we need to have
9 the tools that are there, and I'll tell you we
10 all appreciate the CEC expanding those tools,
11 right. Previously, or under the current
12 regulations, blind audits, that's pretty much all
13 that we have to operate, and we have a pretty
14 significant quota that we have to meet. So a lot
15 of our time is, you know, spent towards that,
16 which really doesn't allow for innovation or for
17 us to figure out, how can we more effectively
18 address that primary, which is those bad actors?

19 So, while I appreciate that we now have
20 shadow audits, we have blind QA, we have desk
21 audits, we have lab audits, having those tools at
22 our disposal is great. It gives us lots of
23 options to address the various issues that we
24 have. But, you know, what I would strive for is,
25 while we do need to have regulated QA programs,

1 if those regulations are too strict, then the
2 providers are going to focus on just checking
3 that box and hitting that quota so they don't get
4 penalized by the CEC.

5 What we need to do is, we need to find a
6 balance between those regulations and the
7 flexibility that the providers need to adapt to
8 what they're seeing as they go through and
9 perform their QAs, and "Well, this is working
10 really well" or, "You know, we really kind of
11 exhausted this, and we're not finding QA
12 failures. We need to shift over. Let's focus on
13 something else and see if that helps," you know.

14 There's always going to be QA failures.
15 We're always going to have to work through those.
16 But we need that flexibility to be able to
17 maximize and make it as efficient as possible.

18 One more item -- or, I'm sorry, two more
19 items here. We'll get through these fairly
20 quickly, and I know Joe touched on this during
21 his presentation, but one of the things that
22 we've had concern of, especially myself, as I've
23 been the person that's put the training material
24 together and had to get them through the
25 application process, is there is a subjective

1 nature to staff review of provider applications.

2 So, when the proposed language requires
3 things like, you know, a laboratory environment,
4 a training that's done in that laboratory, and
5 even just the application as a whole, we're left
6 with a vagueness there that -- I can build a
7 laboratory that I think would be sufficient, but
8 it's really up to that staff member. They're
9 going to come in, and I don't know what they're
10 going to use to determine whether or not what we
11 built is sufficient.

12 So that subjective nature really needs to
13 be addressed, and we need to have that for
14 consistency across providers, and in many
15 different areas. You know, we're not asking for
16 complete, you know, regulation by the CEC, but,
17 when it comes to -- if I'm going to submit an
18 application, I need to know that I've checked all
19 those boxes on that application, and, yes, there
20 may be some comments, but it shouldn't be "Well,
21 you're missing this piece. We believe it should
22 be there," but it's not clearly stated that that
23 piece needs to be there.

24 So we'll leave that there. I think I
25 said enough.

1 Then, finally, you know, a working
2 session. We do understand that the CEC, being a
3 government entity that must comply with a myriad
4 of rules and regulations, may not be able to
5 communicate and work with various stakeholders
6 with the ease of those operating in the private
7 sector, like CHEERS and CalCERTS.

8 We do feel like a working session with
9 staff is necessary to talk through the proposed
10 regulations. This free sharing of goals and
11 ideas will allow all parties to contribute to
12 improving the program we all rely on. Those that
13 operate solely in the private market know the
14 value of these work concessions, as they are at
15 the core of, you know, every thriving business
16 and industry.

17 So we look forward to working with staff
18 in whatever form that happens to take, and as
19 well as other stakeholders who want to have this
20 in open processes, as much of an open process as
21 possible. So we invite everybody that's
22 interested in either just listening in or being
23 part of those working sessions.

24 So, with that, I'll go ahead and hand it
25 back over to Lorraine. Again, thank you all for

1 the opportunity to share our thoughts during this
2 process.

3 MS. WHITE: Thank you, Rob.

4 At this time, I'd like to hand it off to
5 Jonathan Johnson with Golden State Registry,
6 applicant. Good morning, Jonathan.

7 MR. JOHNSON: Hi, folks.

8 MS. WHITE: If you'd give a little
9 background about yourself to begin with, that
10 will be great, and we will be going a little bit
11 over for this panel, just to make sure you have
12 the time that allows you to make your statements.
13 Thank you.

14 MR. JOHNSON: Yes. Thank you so much for
15 having me here. Can you all hear me? Are we
16 good?

17 MS. WHITE: Yes, we can.

18 MR. JOHNSON: Okay. Excellent. Yes.
19 Really, I'm here to learn, and just to add a few
20 comments on what I've seen. I've been working
21 with HERS testing and air balancing for a number
22 of years now, and my experience is really from
23 working with what we're now regulating as, you
24 know, a HERS rating company, which is an
25 important step in the process, because -- yes.

1 It was not in the regulations, but what
2 we found is that, you know, private companies
3 were able to come into the sphere, help
4 compliance by doing it at scale, to keep the
5 prices low, and I think I've mentioned that
6 before, but actually having these, you know, HERS
7 rating companies has really, you know, kept the
8 price low. If you look at the price of HERS
9 testing, you know, 10 years ago versus today, it
10 really hasn't changed all that much, and if you
11 checked your gas, your utilities, all of that,
12 that's all gone up.

13 So, in a lot of ways, just the efficiency
14 that these companies bring has helped the
15 industry, so I think it's good to acknowledge
16 that, and to then, you know, understand that it's
17 important to regulate them in a reasonable way
18 that, you know, helps them to be responsible for
19 the HERS raters under their employ.

20 So I've seen that firsthand. I worked
21 with iPermit for a number of years, sort of
22 revamping the processes, training HERS raters,
23 requiring pictures so that we could do internal
24 audits and really understand what the raters were
25 doing out there, and be able to add training,

1 continue to develop raters and give them, you
2 know, more complex jobs as time went on, and
3 that's what I've seen a lot in training.

4 Part of the comments in this section were
5 on training, so I wanted to bring up a little bit
6 about that. Let me just see if I can get this
7 right here. Okay. Yes.

8 So, when it comes to training a rater,
9 what I've seen just in, you know, working not as
10 a provider but as, you know, a trainer for a
11 company, is that it takes, you know, at least a
12 good two weeks, sometimes more, depending on the
13 rater.

14 I worked with raters every day out in the
15 field, doing, you know, four to six jobs a day,
16 just to help them get trained to actually
17 understand the different scenarios in a home, and
18 be able to identify things properly, be able to
19 apply the testing correctly.

20 So that, to me, is definitely an issue
21 because, of course, if you put that on the
22 providers, that adds a huge amount of cost to the
23 ability to certify raters, and it slows down that
24 process considerably. So I'm not sure I know the
25 answers to that, but I'd be very interested in

1 the comments later to hear what other providers
2 who have more experience than me have seen in
3 that regard.

4 From my personal experience, it could
5 take anywhere from two weeks of daily training to
6 a month, if they're sort of a, you know, rater
7 who doesn't have a background in math, science,
8 building science, HVAC systems, et cetera, and so
9 what happens right now is that cost, as far as
10 I've seen, is borne by the rating companies.

11 They invest a lot in training their
12 raters, and I think all the big rating companies
13 have a focus on that. They don't just take a
14 rater from, you know, certification by CalCERTS
15 or CHEERS and send them out into the world. They
16 realize that they have to train them in all those
17 aspects, because they're representing, you know,
18 a company.

19 Where that isn't happening with, you
20 know, individual raters who get certified, I can
21 definitely see that there's a learning curve
22 there, and the possibilities of just be doing
23 things wrong or improperly for, you know, years,
24 if they're not properly QA-ed and if the training
25 isn't continued.

1 So I mainly just wanted to comment on how
2 that process has been in the real world, so that
3 we understand that when we're talking about
4 training raters and trying to quantify what that
5 means. I've thought of different ways that could
6 work. Obviously, using technology in that
7 instance can be very helpful.

8 I would say that -- well, I had a comment
9 on the difficulty -- I think the providers who
10 have been in business for a long time can let me
11 know if I'm wrong on this, but it would seem to
12 me that it's been difficult to fulfill the
13 requirement of testing the first five homes after
14 a rater is certified.

15 I don't know, in the comments, if you
16 guys can tell us if that's been, you know, the
17 case, but I do agree a lot with CalCERTS on the
18 blind QAs. They're really helpful in actually
19 identifying bad actors, and I think that's a very
20 important process, and I really do agree that the
21 QA program as it's set up to work, and the way
22 it's defined in the code currently, is quite
23 effective when applied correctly.

24 I think CalCERTS has been doing that for
25 a number of years, but getting in touch with

1 homeowners, scheduling appointments, that's all
2 very challenging, like even, you know, with me,
3 in the private sector, trying to get back to a
4 home to say, "Hey. You know, I noticed something
5 wrong in the photos. Can I come and take a
6 look?" "No, I've already got my certification.
7 You know, we don't need you guys coming back. It
8 was already such a hassle last time."

9 So I did wonder about that, and I have
10 suggestions as far as continuing training or
11 putting language in the code for things like, you
12 know, the first five houses or things like that.
13 Maybe a lot of that could be done via video, not
14 necessarily the whole test, but the, you know,
15 key elements, so, yes, just using technology to
16 further training, because otherwise I think the
17 costs are going to be extremely high.

18 Right now those costs are borne by rating
19 companies, because they invest in equipment,
20 training. They have senior trainers who have
21 been there a long time, who help the, you know,
22 new raters get involved in the industry. But for
23 those who are just going straight for provider
24 training at present, and out into the world, I
25 think there's definitely a big gap there, at

1 least from what I've seen.

2 A few more comments. I guess, for me,
3 you know, if we are to get approved, which we're
4 working on -- and we're excited about, you know,
5 joining the community of providers when all of
6 the requirements have been met -- going into the
7 next code cycle, kind of bouncing a little bit
8 off of what some of the other providers have
9 shared, I think personally that, you know,
10 without photos being required for key elements of
11 a test, it's very difficult to ensure, as Rob
12 Starr was mentioning, the validity of data, for
13 example.

14 Simple things like, you know, the model
15 and serial number of a condenser or, you know,
16 things like that, if you have a photo, you know,
17 attached or acquired for that data point, then,
18 you know, for QA, you can do a lot of desk
19 audits.

20 Then, when you can do a lot of desk
21 audits, you know, verifying that data that's, you
22 know, there, versus the data that's there, if you
23 see a guy who's screwing up all the serial
24 numbers, and, you know, also the duct testing
25 numbers, and the refrigerant numbers are all, you

1 know, wrong, but maybe it's just because he put
2 them all in the wrong place, you can see right
3 there that you have an education problem, you
4 know, you have a training issue. Maybe they're
5 just not, you know, adept at those kinds of
6 things, and they need extra training, or they're
7 not detail-oriented.

8 So I would say that -- I would comment
9 that, like, going into this, I'm very much behind
10 using photo evidence to document testing, whether
11 in this code cycle or a future one, because that
12 will enable a provider to just look at those
13 photos, compare it with the data, and then,
14 instead of just randomly QA-ing, you know, guys
15 who are doing a great job, we'd be QA-ing the
16 ones that are issues, like, you know, "That
17 testing photo is way too close, doesn't seem to
18 match everything else, and maybe I've even seen
19 this one before on another guy's jobs," and I've
20 experienced all this QA-ing in the private
21 sector.

22 So then you're able to select the job,
23 call the homeowner and say, "Hey. You know,
24 there is an issue here, and we'd just like to
25 make sure that your system is, you know, tested

1 properly," and then, you know, you follow the
2 process after that, which brings us to
3 decertifying raters, all those issues.

4 I think there's a lot that goes into that
5 discussion, but without a uniform playing field,
6 the providers and the rating companies are all
7 going to be, you know, at different agreements,
8 you know, different levels, especially in reading
9 the language of the new code cycle. You know, if
10 one company decertifies, the others have to
11 follow suit.

12 I think there's a lot to be discussed
13 there in the actual details of decertification.
14 Are we going to just say, like, "Three strikes
15 and you're out. If the data is wrong, it's
16 wrong, and it's your job to get it right"?
17 Really that's the simplest way to do it. Rob
18 Starr, on the other hand, was mentioning
19 flexibility.

20 Like, how do we determine if they're a
21 bad actor or if they're just simply making
22 mistakes often? That's very fluid and very
23 difficult to define, and one provider might say,
24 "You know what? We're just going to go by the
25 data. Like, if you give us bad data too many

1 times, something is wrong. Yes, we tried
2 training. We tried all those things. But you
3 keep, you know, doing this. So five strikes,
4 you're out, three strikes, you're out, whatever."

5 Another provider may say something like
6 "Okay. We understand why you keep getting it
7 wrong, and you've had 15 chances, but we're going
8 to keep going." So I think just leveling the
9 playing field is something that's very important.

10 I'm not watching the clock, but I'm
11 trying to go quick, here.

12 I guess, to round it off -- and this is
13 where, you know, for me, learning this section of
14 the industry, I'd really like to hear from
15 CalcERTS, CHEERS, and other raters in the
16 comments, but I just wanted to open the
17 discussion.

18 Really, I believe that if you're going to
19 have effective QA, which has been a big part of
20 the discussion because it's the only way to, you
21 know, up the confidence in the industry, and make
22 sure that, you know, people trust these reports,
23 that bad actors are weeded out, et cetera, I
24 think, you know, alternatives to some of the
25 existing methods might be helpful.

1 Another part of my background is air
2 balance, and we use different techniques that are
3 not available to HERS raters, so I wanted to open
4 the discussion of whether, in this code cycle or
5 the next, we could discuss alternatives, like
6 say, for example, smoke testing. It's very
7 subjective, and I don't -- you know, raters are
8 moving fast. They're trying to make money,
9 either for themselves or trying to hit, you know,
10 their appointments for the company.

11 Doing a smoke test correctly takes time,
12 takes climbing into attics. A lot of raters are
13 just going to avoid it. You know, they're going
14 to pop the smoke in. They're going to, like, go
15 like this (indicating) with a flashlight, and
16 they're going to be doing -- and as a provider,
17 how do you call them out, say, "Hey. You know,
18 we found something in the back"? "No, I just
19 missed it."

20 So, to me, something like utilizing air
21 flow, you know, a handheld volumeter, could be an
22 alternative method, where we say, "Okay. You
23 could either do a really thorough smoke test, or
24 you could go around to all the supply registers
25 and register the output airflow. As long as it

1 meets a certain criteria, then you can pass that
2 job."

3 In many ways, that's actually more
4 effective, especially in the homes that may have,
5 you know, issues where, you know, the smoke can't
6 be detected in the walls, and, you know, places
7 in the attic you can't get to.

8 So I wanted to, like, talk about if
9 there's some alternatives that we might be able
10 to employ that are easier to be defined, "Okay.
11 So, fine, you've got, you know, 1,565 CFM on the
12 output. As long as, when we QA it, you're within
13 that target, well, then, you did a great job," as
14 opposed to "Yes, we found smoke" or "We didn't
15 find smoke." Like, that's a tough one. I think
16 that could be something to be considered.

17 The other comment I wanted to make,
18 equipment issues. Requiring that air flow,
19 specifically, be tested based on a situation is a
20 difficult one. One, it's just the cost of having
21 a flow hood, flow grid, and the associated, you
22 know, monitors and stuff you need to make those
23 all work. I think that it would be worthwhile --
24 and this is just a suggestion out there, just to
25 open the conversation -- to do something like

1 allow splitting registers.

2 You know, a typical flow hood has a, you
3 know, 24-by-24 hood on it, and it's quite
4 effective in measuring, you know, the air flow on
5 a return. You can, you know, make a mark on that
6 return, and you can do it in sections. It is not
7 100 percent accurate, but, if we felt this was
8 something that could be valuable, we could
9 definitely test that.

10 We could do 100 tests, 500 tests, and see
11 within how many percent we're at, because I guess
12 my question is, when we are queueing or when a
13 rater is testing, is our goal to get it 100
14 percent accurate, or to ensure that it is
15 passing?

16 A lot of my training for my raters was
17 "It's a big world out there. There's a lot of
18 different kinds of houses. There's a lot of
19 challenges. Not everything is going to work in
20 every situation. My job for you is get it right.
21 Get it right. Is that system passing? Is there
22 an issue? Is there something we don't know about
23 that, if you miss it, that customer is going to
24 be uncomfortable, going to be wasting energy,
25 going to be costing them money?"

1 Like, those are the things that we're
2 looking for, and if we focus on that, then we can
3 have alternatives, and in some situations, losing
4 flow grids is just not really feasible, or it
5 adds an extra hour or two to the job, and are
6 raters going to do that? Can we require them to
7 do that? Yes, we can, but what I've seen in the
8 real world is, when you make something more
9 difficult, then people don't do it.

10 Going into, hopefully, being a provider,
11 I want to see guys succeed because they're able
12 to, and bad actors, like, really lazy guys, get
13 weeded out very quickly, so that we have a really
14 clean, effective industry, but something as
15 simple as, you know, splitting a register and
16 measurement, it might be a difference of 25 CFM,
17 because of the way the air flows, but, if the
18 requirement for that system is, you know, say,
19 1,500 CFM, and you're getting 1,650, then you're
20 okay. You know what I mean? We know you're
21 within the mark.

22 So are we trying to test to say, "Well,
23 when we tested it, we got 1,656. You got 1,650.
24 You know, that's a discrepancy"? No. What we're
25 really trying to say is "Was it over the mark?"

1 Did it pass? Did you get it basically right?"

2 I think that's an acceptable level of
3 compliance, and when we allow for that, we might
4 be able to ensure that the raters are doing it
5 properly all the time, because even small
6 work-arounds like building a bigger hood on top
7 of your existing hood, because that's the
8 requirement, that changes the air flow anyway.
9 When you use flow grids, they change the air flow
10 anyway.

11 So something as simple as saying, "Yes.
12 You can measure pretty much everything with a
13 flow hood, as long as you get it right within
14 these parameters," that would reduce costs
15 considerably for raters and rating companies, and
16 it would allow for, you know, situations that are
17 different to measure, and I just believe in
18 making things as enforceable as possible, and
19 then sticking to your enforcement.

20 So those are just a couple things off the
21 top of my head. Like I said, mainly I'm here to
22 learn, and I appreciate you guys having me here.
23 I have a few more comments, but I think my time
24 is up. But those were the main things.

25 MS. WHITE: Thank you very much,

1 Jonathan.

2 I do encourage the comments that are
3 being made today, whether by our panelists or
4 participants in this workshop, also be submitted
5 in writing to the docket. It ensures that if you
6 miss anything, or you want to expand more on a
7 particular point, you have the opportunity to do
8 so, and we'll benefit from that.

9 So I would like to thank our panel, and
10 encourage anyone who has a question about what
11 was discussed today -- if you would please raise
12 your hand. We can go in through some open public
13 comments. We can also ask questions of the
14 panelists during this next few minutes before our
15 break at lunch. We do have another open public
16 comment period later in the day, but we wanted to
17 avail the opportunity this morning to anyone who
18 is interested.

19 So I do want to start with our panelists
20 still on the phone. I am interested if --
21 particularly since we've been talking so much
22 about training and quality assurance, what are
23 likely to be some of the cost-related impacts
24 from staff's proposal on your programs? I would
25 definitely like to have the benefit of targeted

1 response to that.

2 We do have several questions here, of
3 course, but, in particular, let's start with the
4 question about what we think the impacts might
5 be. There has been a lot of great suggestions
6 here, and in staff's report we talk about the
7 alternatives that we're considering, what we're
8 proposing, and how we think those costs will be
9 affected, and we are very much interested in
10 ensuring that our analysis is correct, but really
11 can't do it without input from the providers on
12 exactly what their current costs are and what the
13 impacts of these proposals might be.

14 So I'd like to, you know, call on Rob and
15 Kevin, David, Jonathan. I know that you haven't
16 quite started your program, but, if there's
17 anyone here who could share some ideas, I'd
18 appreciate it.

19 So let me go ahead and just say, you
20 know, Rob, how about you guys? Do you have
21 particular thoughts or comments on what you think
22 the proposed impacts might be? I know some of
23 our proposals have actually been on the books in
24 the original staff reports since October, and we
25 realize that they were tweaked in May, but

1 definitely want to know what people's thoughts
2 there are. Rob?

3 MR. STARR: Yes. And so, at this point,
4 I don't have any hard cost data. What I
5 will -- what I can comment on is, I was, you
6 know, reviewing, as part of the last group -- or
7 this last revised proposal that came out -- some
8 of the cost assumptions that were made in that,
9 and one thing I would point out is, you know, the
10 staff did go to both the CHEERS and the CalCERTS
11 websites, look at what does it cost to go through
12 training, and there's clearly a significant
13 difference in those figures.

14 The comment that I'm going to make is,
15 being private businesses, we all make decisions
16 on where we're going to recover costs versus
17 where we're going to build that cost or absorb
18 that cost into, you know, other items.

19 So, while there is a significant
20 difference between, you know, our costs and
21 CalCERTS', as outlined in the staff report, the
22 costs are going to be pretty similar overall.
23 You know, our full-burden cost is going to be
24 very similar. We just chose, you know, to go
25 about that in different ways.

1 So we are looking at that data, but I
2 haven't been able to go through and perform a
3 total cost analysis. It's a little bit more
4 challenging on our end, because it's not a direct
5 recuperation of those costs. So it makes it a
6 little bit more challenging for us to really poll
7 the numbers on actual costs. So that's about all
8 I can say at this point, but it is something that
9 we're looking into.

10 MS. WHITE: Thank you very much.

11 MS. GATLIN: About that --

12 MS. WHITE: Shelby. Yes, please.

13 MS. GATLIN: So Tim Hobson (phonetic) and
14 I at CalCERTS, we submitted some information, you
15 know, a two-way, essentially, to actually do the
16 work, depending on how many systems and where it
17 is. It runs about \$266 just for the labor. That
18 doesn't count driving, reimbursements, things
19 like that.

20 So we can get you those kind of numbers,
21 but with respect to what's being proposed in the
22 regulations, it's significantly more expensive.
23 So, when you're doing the shadow audit, you're
24 actually -- you're chasing that person. The
25 scheduling, the work to actually coordinate that

1 and make that happen, is really, really
2 expensive.

3 Over the years, we've done elaborate data
4 analysis to be able to schedule and track and
5 find raters in geographic areas so, if we're
6 doing blind audits, we're going to hit this area
7 with our team and be able to do it strategically,
8 cost-effectively, and then we can control where
9 we go and how we go, but when you're doing the
10 shadow audits, you have no control over that, and
11 when you actually do the lab audits, that's a
12 whole new cost that the CEC is proposing. That's
13 a cost that hadn't been encountered before.

14 So what the shadow audits have done,
15 effectively, is to be able to remove any of those
16 efficiencies that we have in place to go and go
17 behind a rating that's happened in a
18 time-effective manner, and actually get that QA.
19 So we expect that, as it's written, the QA
20 program to be far more expensive, and I know
21 that's not what the Commission had intended. The
22 Commission had intended to try to kind of cut
23 back on that burden.

24 There's also some issues there with
25 having to do a shadow audit on any complaint. You

1 know, we get a whole plethora of types of
2 complaints, and there are some that are
3 legitimate, and there are some that are not, and
4 so there's work that needs to be done on that
5 language there.

6 David, do you have anything about the
7 costs?

8 MR. CHOO: Yes. So, you know, let me
9 add, one of the concerns that we had, and
10 specifically with shadow audits, when it comes
11 to, if something goes wrong, or we find an issue,
12 or they're going to transfer a project from the
13 ROR, right, the provider now has to go and
14 conduct the shadow audit.

15 That is very difficult to coordinate,
16 right, because now what's the situation? Do we
17 have to stop anything? Can the permit ever be
18 closed? Can we proceed with anything else in
19 that home in terms of construction or, you know,
20 the mechanical changeout? So we need to get
21 involved with that, and that's a process.

22 And the other side of it, when it comes
23 to new construction, the whole idea of, you know,
24 on the seventh sample group, that we'd have to go
25 in there, and the production -- you know, the

1 housing company or the construction company, you
2 know, to stop things for us to get in, that's
3 significantly difficult, because, the way that
4 blind audits work, oftentimes, is they're
5 completely -- we just randomly choose one, and
6 we'll call, and these supers have no concept as
7 to really, you know, what we're looking for, so,
8 "Hey. Is this lot available?" "Sure. Okay.
9 Come on over." "This lot?" "No, not right now,
10 because they're painting," right?

11 So, then, now we're added an aspect of
12 this coordination that was never there before,
13 and then the rater has to be there, we have to be
14 there. Probably the installer will be there, or
15 whoever is involved for that measure, is going to
16 be there at the same time, and that's going to
17 increase costs significantly because now, instead
18 of devoting a targeted, whatever hour period, or
19 two-hour period of time, we're now talking about
20 a day's worth of time to deal with that one
21 issue. So those are some of the concerns.

22 MS. GATLIN: Yes, to all the trades
23 involved, right? There's going to be a cost to
24 everybody.

25 MS. WHITE: Jonathan?

1 MR. JOHNSON: Well, the costs, you know,
2 that I'm looking at, obviously, from my vantage
3 point, is the lab requirements, and, you know,
4 when I look at it, you know, it depends -- like,
5 you know, some providers have them, some don't.
6 Some are developing them. I think labs can be,
7 you know, helpful, and if they're required,
8 that's great, but HERS is not really a, like,
9 highly technical profession in some ways. It's
10 highly adaptive.

11 You know, it's very valuable to able to
12 work in actual homes, and actually be at things
13 on the ground, and so yes, I would just say that,
14 you know, having to establish locations,
15 offices -- let's say you want to service Northern
16 and Southern California. You don't want to send
17 your raters for regular training or, you know,
18 things, you know, far away from their location.
19 So now you have to have two locations.

20 Those are all added costs for sure, or,
21 you know, maybe providers end up dominating
22 certain areas just because of location, and, you
23 know, lab, you know, test home requirements.
24 But, in the real world, I've seen that working on
25 actual homes is, I think, a benefit, and not a

1 drawback, so I would say, for me, looking at
2 that, you know, requirement, you know, that's an
3 added cost for sure.

4 MS. WHITE: Thank you.

5 MR. CHOO: You know, if I might add,
6 Lorraine, something that Jonathan brought up. In
7 terms of the costs of coordinating these QAs --
8 sorry. I've completely lost my train of thought.
9 I'm going to step out.

10 MS. WHITE: Rob, I know you --

11 MR. STARR: No problem. I'll jump in
12 there for you.

13 MS. WHITE: Yes, yes, while David tries
14 to figure out what he was going to say.

15 MR. STARR: Sure. So I wanted to touch
16 briefly on something that Jonathan mentioned
17 during his initial statement, and then also kind
18 of alluded to on this one, is, you know,
19 referring to the laboratory environment, and a
20 laboratory -- and I think back to, you know, when
21 I first was trained.

22 PG and E had a facility there in Stockton
23 where they had an old house and, you know, had it
24 really built up with all these different systems,
25 and while that was good, to get kind of an

1 initial (sic), one of the things that a provider
2 is just not able to do is provide that, I want to
3 call it, mentoring.

4 I don't know if that's the right term,
5 but that's almost what's needed, and Jonathan
6 alluded to that, of when he was out there in the
7 private market, working for a HERS rater firm,
8 and you get new guys on, and it takes one, two,
9 three weeks of them going and writing, and the
10 repetition, and "Okay. Well, this is a house
11 built in the 1950s," versus "This house was built
12 in 2016," and there's significance in those, and
13 the systems, and how they're built and located,
14 installed, and even if we did have a laboratory,
15 raters can't get that type of experience, and I
16 don't know what the solution is.

17 We've, you know, struggled with this for
18 years. We've talked with different, you know,
19 HERS rating companies to see if there's a viable
20 path to where we can create some kind of
21 mentoring program, but it has, you know, several
22 different challenges, and there's a large cost
23 associated with that, which typically is, a rater
24 is hired by a rater company. That rater company
25 burdens that cost, but you think of those

1 independent raters that come in, and we support
2 them as best we can, but it's still a definite
3 challenge in that training, and a laboratory just
4 can't solve that, that part of the problem.

5 MS. WHITE: And, Shelby, you were going
6 to say something?

7 MS. GATLIN: I just think -- I think the
8 mentoring part is very important, and I think
9 CHEERS and CalCERTS can get together and put some
10 comments on that. We do quite a bit of
11 mentoring.

12 You know, when we are -- when our raters
13 get a written discrepancy notice from a
14 QA -- because we give everybody feedback on each
15 QA that we do -- if it's unclear, if it's a
16 knowledge issue, we do the mentoring. It's part
17 of what we offer.

18 So the shadow audit, the laboratory
19 audits, those really could be moved to the
20 training components that are in some of these
21 proposed regulations, you know, with some caveats
22 for costs, but the mentoring part is something
23 that CalCERTS does regularly, and is effective,
24 and is probably necessary, but more of a training
25 component than a QA component.

1 MS. WHITE: And I do want to point out
2 that, you know, the idea of having providers who
3 certify the raters perform the initial training
4 to ensure a minimum level of competency in order
5 to certify that individual as a HERS rater is
6 really where the regulations are focused when it
7 comes to providers. It is not necessarily that
8 we are restricting or we would want to change the
9 type of mentoring and coaching that rater
10 companies or independent raters do on their own
11 to perfect and improve their skillsets.

12 So we appreciate, and we absolutely
13 applaud, the additional training that is done by
14 the individual companies. We know that that is a
15 way that some of these companies can also
16 distinguish themselves, and the quality of their
17 work product, through their raters in the field.

18 So having these comments on the record
19 really helps us to perhaps clarify, maybe refine,
20 what our expectations are for different actors
21 within this market, and really do appreciate a
22 lot of this exchange. I mean, without it, we are
23 kind of -- we are having our own kind of blind
24 audit, if you know what I mean.

25 MS. GATLIN: Absolutely.

1 MS. WHITE: And so truly appreciate this.

2 I do want to try and get one more of
3 these questions in before the lunch break. Now,
4 we've had a lot of discussions on, particularly,
5 the topics of greatest concern, where we all know
6 that improvements can be made in this program to
7 boost the confidence in the outcomes of these
8 ratings and the reports that are done on Energy
9 Code compliance, but I did want to really talk
10 about what additional alternatives people had in
11 mind.

12 Granted, maybe the blind audits are the
13 ne plus ultra, and really the only thing we
14 should be doing. Are there things other than the
15 other alternatives that we have proposed that may
16 be appropriate to provide flexibility while
17 assuring the same level of quality assurance in
18 these programs?

19 Are there additional things that we
20 should be actors in different roles within the
21 industry to do in order to ensure that a rater
22 has the right training and understanding of the
23 code requirements? When you guys talk about what
24 the Energy Commission should be producing in
25 terms of tools, what are those alternative tools

1 that we should be thinking about? They don't
2 have to necessarily be specified in code.

3 As you all know, the Energy Commission
4 specifies a certain level of information within
5 the regulations, but then the details are worked
6 out afterwards. So I know, Shelby, you popped in
7 there for just a second, and Jonathan as well. I
8 welcome any of your thoughts on those questions.

9 David.

10 MS. GATLIN: Go ahead, David.

11 MR. CHOO: Sure. You know, it's not
12 really so much the different things. Actually,
13 you kind of touched on it. You know, when it
14 comes to the actual report, data audits are very
15 useful. That's one of the ways in which we can
16 find out if there's something wrong.

17 A lot of times, we'll perform these data
18 audits where we'll look at, say, every duct
19 leakage test that the rater has done, you know,
20 the last 100 duct leakage tests. It's pretty
21 easy to figure out whether there's a problem, you
22 know, because, if they've got a target of 100,
23 and they've got, you know, a passing recorded
24 rate of 100 on 100 tests, you know, immediately
25 red flag go up, and we try to look at what's

1 going on. Right? So that's one thing that's
2 very useful.

3 The other thing that I think that the
4 Commission hasn't really touched on, that a lot
5 of people I hear, you know, boots on the ground,
6 are concerned with are energy consultants, right?
7 A lot of times, there's nothing -- there's nobody
8 vetting the energy consultant right now, outside
9 of the idea of a CA and such, and what happens in
10 the field is, these energy models are created by
11 people who don't understand construction or don't
12 understand any of this, right, because there's no
13 limitation to who can do it.

14 I've heard that some of these energy
15 models are farmed out to other countries, right,
16 where they're done for pennies, and what happens
17 is, these energy models are impossible to meet,
18 and they go out in the field, and these raters
19 go, "I don't know what to do. You know, I can't
20 even get these people to change their energy
21 model."

22 So that's one of the things that I'm
23 hoping can be addressed during this rulemaking,
24 is, well, how do we deal with really terrible
25 energy models, and energy modelers?

1 MS. WHITE: That actually would be a
2 great discussion when we get into the 2025
3 rulemaking for the Energy Code overall. Within
4 the scope of this particular rulemaking, and the
5 proposed changes to the HERS program, that's a
6 bit outside of it, but, David, I absolutely
7 appreciate those comments, and will help
8 facilitate those discussions when we get into the
9 broader Title 24 overall update to the Energy
10 Code.

11 MR. KANE: Lorraine?

12 MS. WHITE: Yes, Kevin.

13 MR. KANE: Yes. If I may?

14 MS. WHITE: Of course.

15 MR. KANE: So the only other thing that I
16 would maybe throw up, in addition to David's
17 comments with regards to the data helping us
18 drive where we spend our attention, especially
19 when there's training requirements or what have
20 you -- the other area, I think, that -- I think
21 this was touched on before as well by
22 Commissioner McAllister earlier, and that is, you
23 know, what are we doing about permit compliance
24 on the alteration side, right, so that we're
25 ensuring some type of -- that the structure that

1 we've invested in, and the process we have set
2 up, as we know, is well utilized on the new
3 construction side, grossly unutilized on the
4 alteration side.

5 So I don't recall seeing anything in the
6 report, so I may be mistaken. Maybe I overlooked
7 it. But is there any effort and attempts at
8 rectifying where we see some issues around permit
9 compliance and alterations?

10 MS. WHITE: So those efforts are outside
11 of this particular rulemaking. When we look at a
12 rulemaking, it has to be very well defined within
13 a particular program, and people actually pulling
14 permits are truly outside of the HERS program,
15 the way it's structured, and so we are looking at
16 that issue.

17 This issue did come up, and has come up
18 several times, in all sorts of different forums,
19 not just these proceedings, and it is a much
20 broader topic. In fact, there is a piece of
21 legislation that's being considered in the
22 California legislature that would grant authority
23 to the Commission to do additional work in this
24 area, and to some degree, it is related to the
25 compliance document repository that we are

1 currently building.

2 To David's point about evaluation of
3 data, the compliance document repository is
4 allowing us to do a lot of evaluations of the
5 information that has been submitted by the
6 providers to us to date, and, in part, we'll
7 continue to do so, so that we can support the
8 credibility of this program and its improvements.

9 So the issue of who is and is not pulling
10 permits, yes, it's on the Commission's docket for
11 efforts. We, of course, would be -- will be --
12 working with CSLB more strongly there, and local
13 jurisdictions, but it is kind of -- it's related,
14 but tangential to this effort.

15 MR. KANE: Thank you. Appreciate the
16 feedback.

17 MS. WHITE: You bet. My pleasure.

18 COMMISSIONER MCALLISTER: Hey, Lorraine.

19 MS. WHITE: Yes, Commissioner.

20 COMMISSIONER MCALLISTER: I dropped back
21 in. I've just been following, but I did want to
22 just chime in on this --

23 MS. WHITE: Thanks.

24 COMMISSIONER MCALLISTER: -- and, you
25 know, reinforce your answer, but also add a

1 little bit.

2 I really appreciate that question,
3 because I actually think that, in a way, this
4 conversation is a little bit kind of hand in
5 glove with that question, because, on the one
6 hand, you know, we absolutely have to make sure
7 that folks are pulling permits, and that the AHJs
8 are actually, you know, sort of looking at the
9 information, making sure that the permit has
10 been -- you know, that the rules have been
11 complied with before they actually sign off and
12 close a permit, right, in each project.

13 So it's a particular sticky point in
14 alterations, and particularly HVAC changeouts,
15 you know, as we all know, but, you know, one
16 thing we hope to accomplish with this reform is
17 to sort of make it -- you know, "streamlining" is
18 a word that now has, you know, some baggage on
19 it, and I don't mean it in a way of reducing
20 requirements, necessarily, or reducing sort of
21 the, you know, responsibility to comply with the
22 code.

23 Absolutely, that's got to remain, but,
24 you know, enabling tools and processes that do
25 reduce costs, that have the potential to reduce

1 costs, and then combining it with some of the
2 technology that we're going to be bringing, and
3 that we're going to be looking to you to help us
4 develop on the repository side, those are part
5 and parcel of this whole ecosystem, and it's the
6 whole ecosystem that we need to optimize, right?

7 So this is part of that ecosystem. It's
8 just the tools -- you know, not, maybe, directly
9 part of the tools, but I want to just elevate
10 your kind of observation that, you know, the
11 overall sort of permitting and compliance is a
12 challenge in existing -- you know, in alteration
13 to existing buildings, and retrofit situations,
14 and to the extent we can kind of project some of
15 those solutions in this discussion, I'm happy to
16 do that, and then we definitely need to have that
17 broader discussion, you know, down the road.

18 MR. KANE: And for what it's worth, thank
19 you, Commissioner, and I completely agree, for
20 what it's worth, and I know there's been a number
21 of ideas floating around out there at how we
22 might be able to help provide that type of
23 solution.

24 So, to comments made earlier, I support
25 as well that the more we can collaborate with the

1 CEC on these types of ideas, I think, between us
2 and CalCERTS and others, we have certain ideas,
3 working with this industry that we have, that
4 could be, hopefully, implemented at a lower cost,
5 also divergent technology, of course, to help
6 make that not only a lower-cost option, but one
7 that could be adopted relatively quickly across
8 the entire ecosystem. So thank you very much. I
9 really appreciate that.

10 COMMISSIONER MCALLISTER: Absolutely.
11 And, you know, we are -- we need to be in a
12 position where we can, you know, not only expect
13 compliance, but have that be a reasonable
14 expectation, right, that -- not sort of elevate
15 costs, and have a system that's fairly, you know,
16 easy to navigate, and so, you know, get those
17 kind of costs and processes and transaction
18 costs.

19 You've all been talking about the
20 coordination, logistics, and all that kind of
21 stuff, and those are real costs. So how can we
22 sort of streamline in that way to reduce those
23 costs, still get the job done, and then be in a
24 position where we have information that we can,
25 you know, know where compliance is not happening,

1 and go address that at the AHJ, at the
2 contractor, you know, at the different places
3 along the chain of custody here of a project.

4 So we kind of need to have both sides of
5 it, you know, get the costs down, the processes
6 optimized, and then also the information to be
7 able to be more sort of intentional and
8 forthright about enforcement itself. So, anyway,
9 that's the vision.

10 MR. KANE: In complete agreement. Thank
11 you very much for addressing the issue, very
12 much.

13 MS. WHITE: Thank you.
14 Shelby, please.

15 MS. GATLIN: The difficult thing is --
16 and I know, Commissioner McAllister, you can't do
17 anything about this, but it's the three-year code
18 cycle. I mean, for us to be able to try to
19 innovate and help, we are consistently on this
20 treadmill of getting the new code, working
21 through the forms, working through those issues
22 and errors, and then, boom, we're back at it.

23 So there's a complexity there, that the
24 system hasn't been able to absorb the costs of
25 that implementation, and have that not -- all

1 those costs go down to the ratepayer. That
2 workload absorbed by small private companies is
3 pretty significant, and, you know, we're unique.
4 We're unique in the private companies bringing
5 the technology to the table, as opposed to, like,
6 something like the CUPAs and the hazmat recording
7 systems that they use for the DTSC, which is all
8 run by the government, right?

9 So it's an interesting collaborative
10 effort, but the consistent change of the Energy
11 Code is one of the complicated factors there.
12 I'm not saying we can get rid of it, but I'm
13 saying it is a part of the puzzle that really has
14 to be addressed, or at least brought to the table
15 one more time, to think about solutions.

16 Those forms are everchanging. The
17 technology is always changing. The registries
18 have to be kept up to date. There's a lot of
19 complicated pieces in just implementing the
20 program, and so I look forward to being able to
21 broaden the marketplace to help with compliance.

22 COMMISSIONER MCALLISTER: So I'm going
23 to -- so I really appreciate that as well. I'm
24 going to shut up after this comment. Sorry. But
25 I think this is a key just kind of point of

1 elevation, perhaps.

2 If we could sort of -- I'm going to
3 invite folks to bring their creativity to the
4 table in a structural way, perhaps, and maybe
5 this is -- you know, I know this is a lot to ask,
6 but, you know, there are tools that
7 potentially -- and I know staff is aware of some
8 of these tools, but there are tools that,
9 potentially, we could automate some of that forms
10 development or -- you know, I don't want to raise
11 expectations too much here because, you know, the
12 devil is always in the details, but that mapping,
13 you know, different fields to particular forms in
14 a digital way, I mean, there are template-driven
15 tools that could potentially help us navigate
16 that, and avoid some of this incredibly detailed
17 work of picking through every detail on every
18 form, you know, every code cycle, every update.

19 So that would mean, you know, getting --
20 sort of selecting a process and getting on the
21 same page across the -- you know, sort of
22 commissions, providers -- you know, Commission,
23 providers, and some other stakeholders.

24 So, you know, I'm not totally confident
25 that that's sort of something that we could

1 plausibly do, like, in the very near term, but I
2 think, if we could kind of unpack this structural
3 issue that you identified -- and, you know, we
4 have to keep updating the code. You know, we're
5 going to -- for many, many reasons, and certainly
6 it's not just the Energy Code, although that's
7 what we're talking about here.

8 You know, the code cycle is going to be
9 what it is, and, in fact, there's some tendency
10 to be using the intervening cycle, like the
11 18-month cycle, to do things as well. So there
12 is even another complication, potentially, but
13 major updates every three years. That cycle is
14 unlikely to change.

15 So the question becomes, what tools can
16 we bring to help us navigate that, and reduce the
17 burden of the transition and the forms
18 generation, and sort of checking every cycle?
19 So, definitely welcome folks' knowledge and
20 tools, awareness on that front, but I'll wrap up,
21 and I really appreciate this conversation.

22 MS. GATLIN: Thank you. Thank you I
23 think our team works really hard with the
24 building standards branch on some of those ideas
25 and concepts, and we'd welcome more conversations

1 on that for sure. Thank you so much.

2 MS. WHITE: Well, it is a bit after
3 12:00 o'clock, and so we would like to take a
4 lunch break at this time, before we move into our
5 second panel, which will be -- we'll be hearing
6 from a few representatives of the smaller rater
7 companies. We will reconvene at 1:00 o'clock.
8 Thank you all, so far, for the robust discussion,
9 and enjoy your lunch.

10 (Off the record at 12:05 p.m.)

11 (On the record at 1:00 p.m.)

12 MS. WHITE: So, as we get started, so,
13 top of the hour, I want to briefly go over the
14 afternoon's agenda, just as a reminder.

15 We have two panels this afternoon. The
16 first is a panel devoted to input from the
17 smaller rater companies, and getting their
18 perspective.

19 Then we'll take a break at 2:00 o'clock,
20 and then the third panel, which will feature the
21 state's larger rater companies and their
22 perspectives.

23 We'll have that second open comment
24 period right after that, and in hopes of giving
25 everybody a better start to their weekend, we're

1 looking to close a little bit earlier than 5:00
2 o'clock, so that you can enjoy your Friday
3 afternoon.

4 So, Joe, we'll give it one more minute to
5 see if folks are back, and then we can start with
6 the second panel. Okay?

7 MR. LOYER: Very good.

8 MS. WHITE: And I do want to announce a
9 couple of changes on the second panel. We were
10 informed this morning that Tyler Chapman with
11 Lost Coast Energy will unfortunately not be
12 available to join us. It does give a bit more
13 time for those that are able to participate, a
14 little bit more time in that hour to make your
15 comments. So don't feel rushed. And that would
16 include Emily, I think, a couple of people from
17 Barrier, as well as Alfredo. I don't know if you
18 have other people from Elem3nts that you want to
19 have chime in.

20 MR. BACCARI: No, it will be just me.

21 MS. WHITE: Okay. Excellent. All right.
22 Emily, are you back from lunch?

23 MS. BARRIERE: Yes, I'm here, and my
24 notebook I think I actually left downstairs.

25 MS. WHITE: Okay. You want a minute to

1 go grab it, and then we'll get started?

2 MS. BARRIERE: Sure.

3 MS. WHITE: Okay.

4 MS. BARRIERE: Okay.

5 MS. WHITE: Excellent. I see Alfredo, so
6 I think we're ready to get started again.

7 MS. BARRIERE: Yes.

8 MS. WHITE: I'm going to hand the
9 moderation, or moderator role, over to Joe Loyer
10 for this second panel.

11 Joe?

12 MR. LOYER: Hello, everybody. So I can't
13 see myself, so I'm assuming my camera works and
14 you can all hear me.

15 MS. WHITE: Yes.

16 MR. LOYER: I'm going to go ahead and
17 stop sharing here, and I'm going to release this
18 for Emily and Alfredo to take over, here.

19 So, Emily, do you want to begin, or,
20 Alfredo, would you rather start?

21 MR. BACCARI: Emily, please.

22 MR. LOYER: There we go. So, Emily,
23 we'll go ahead and start. So, if you could
24 introduce yourself, your team. Give us a little
25 bit of background, who you are, what you do, and

1 then go ahead and dive right into your comments.

2 MS. BARRIERE: Hi. I work with
3 BarrierEnergy. I'm the general manager, and
4 pretty much run day-to-day operations. Our
5 office is located in San Barbara, and I had a few
6 people join on from our team. So, yes, any input
7 anybody has is helpful.

8 I did review the questions you sent to
9 me, and number one being how changes may impact
10 industry, cost analysis. I think that's largely
11 going to be a question that mostly goes to the
12 providers, because it seems like a lot of the
13 changes that were proposed are going to be
14 directly affecting them, and then maybe kind of
15 trickling down to the rest of us, but it seemed
16 like a lot of the changes really wouldn't require
17 that much money, as far as it would just be like
18 an initial investment to change the overall
19 procedures, and then, once it's implemented, of
20 course, they would have to still have oversight.

21 So the changes that we would experience,
22 I think, would be involved with changing
23 marketing materials, updating our websites, and I
24 guess, to me, the whole naming thing, that's kind
25 of like a sore spot to me, because I'm an SEO,

1 search engine optimization, and I do web design,
2 things of that nature, and I'm just thinking of
3 this being a complete nightmare, trying to redo
4 all of the language on our entire website to
5 remove "HERS rating."

6 I don't really understand why the name is
7 being changed, and I feel like people are finally
8 starting to understand, and it's like, now that
9 people are finally getting it, we're changing the
10 name. So I would like to maybe ask you guys kind
11 of what your thoughts are there, like, the
12 reasons why, maybe, because maybe there's another
13 solution -- I don't know -- that doesn't involve
14 changing names.

15 MR. LOYER: Emily, you said something
16 you'd like me to answer now, or is that --

17 MS. BARRIERE: I don't know. How do
18 you -- like, either way. I can keep going
19 through my whole thing, or we can kind
20 of -- either way.

21 MR. LOYER: Okay. Let's go through your
22 whole thing, then. Yes, let's go ahead and go
23 through your whole thing, and if there's
24 something you want me to answer at the end, I'm
25 more than happy to.

1 MS. BARRIERE: Yes. So that would be one
2 question to keep in the back of your mind. So
3 let's see what else. Yes. I mean, other issues
4 that I see coming up, possibly, project delays.
5 People have kind of discussed this a bit today.
6 Yes.

7 There was an interesting one, like, maybe
8 it's a very specific scenario, but, like, for
9 example, what if the serial numbers are scratched
10 off or something crazy? Like, then what do you
11 do? You know, are you going to tell the
12 installer to rip everything out? Is that going
13 to be an automatic fail, things of that nature?
14 But I do foresee some issues coming up that might
15 put some projects on -- you know, if the rules
16 are too strict, yes, it might put some projects
17 on a standstill, which it's kind of sad to see
18 when that happens to people, because they get
19 very frustrated.

20 Number two, will the changes improve
21 compliance? Yes. I think a lot of the changes
22 were really good. Most of them I don't really
23 think are going to require anything major.
24 Taking photos and adding on a couple of things, I
25 think, are a good idea, getting the homeowner

1 involved, making sure that they understand.

2 Number two -- so, yes, once again,
3 alternatives. I just think that changing names
4 would do more harm than good, and I think that it
5 would contribute to confusion in the entire
6 process. So I support owner involvement, of
7 course, but maybe if there's some alternatives we
8 can think of to the naming situation.

9 Number three, cost-effective alternatives
10 to protect consumers from noncompliance and poor
11 workmanship. So the new training requirements,
12 it seems like those can pretty much be -- to me,
13 that could be added into the existing training
14 that either CHEERS or CalCERTS already provides,
15 and I did see, actually, a lot of those points
16 already in their training. For example, it does
17 go over in the training what a conflict of
18 interest is, and it goes over a couple of other
19 things. So I'm interested to see what you guys'
20 ideas were in implementing the training.

21 Lastly, just putting this out as maybe a
22 sidebar, but I think a lot of installers and
23 contractors aren't communicating with us, which,
24 you know, of course, we have the ones that we've
25 worked with for a very long time, but the problem

1 that I see frequently is they don't call us out
2 until the very end, and, you know, we're supposed
3 to be there when they are installing.

4 So it makes it hard for us to give
5 accurate installation dates and things of that
6 nature when the installers and contractors, I
7 feel like, are not being held accountable. If we
8 could have a way to make them accountable, maybe
9 an outreach program that specifically targets
10 contractors and installers, and makes them aware,
11 because otherwise, you know, what else is going
12 to be left to do, if everything has already been
13 done and we're just coming at the end? There is
14 no way, really, at that point, that's
15 cost-effective. Yes.

16 So those are pretty much my ideas, and
17 I'm open to hearing what you guys have to say.

18 MR. LOYER: I see I'm unmuted.

19 So I think the main question -- I kind of
20 heard this a couple times from you, Emily -- was
21 why do we want to change the name? And there are
22 a lot of reasons why, but the primary reasons
23 have to do with the statute that actually
24 implements the HERS program, and what its
25 original intent was.

1 The original intent of that statute was
2 to produce a voluntary rating program as HERS
3 raters. That rating program was intended to
4 actually give a literal rating number for a house
5 based on its energy use, and not to hold the
6 house to code compliance during a construction
7 period. It was to be after the construction
8 period, and it was to rate them on a single scale
9 for the entire state, and that program itself was
10 very effective in its time. It has since
11 somewhat lapsed.

12 Because it is difficult to do a
13 rulemaking, and all these things have to be done
14 within a rulemaking, it is actually difficult to
15 update those requirements. So what ended up
16 happening as an outgrowth of that voluntary
17 program was this mandatory program of the field
18 verification and diagnostic testing, you know, to
19 demonstrate code compliance.

20 So these two programs, they were -- they
21 are essentially merged into one program, but they
22 are really two separate programs, and the problem
23 is, is we can't have one grow without the other,
24 and the HERS program is coming to this difficulty
25 in dealing with the Energy Code as it's written.

1 So there are rules for the HERS program
2 in the Title 24, Part Six, Energy Code, and then
3 there are rules in Title 20, and so, because
4 Title 20 is difficult to change, but Title 24
5 changes every three years, it creates this
6 difficulty for us to actually keep the HERS
7 program up with the changes in the Energy Code.

8 It also makes this difficulty when we
9 have evolving problems like quality assurance,
10 like, you know, things that are -- that HERS
11 raters may be doing or that may be evolving.
12 Like, when it was originally conceived, HERS
13 rater companies were not conceived as an element,
14 and they definitely are part of the program now.

15 So it really is -- it really behooves us
16 to move these two programs apart. Now, in doing
17 that, in code, we have to make a distinction
18 between them, and so the simplest way to do that
19 is to use a naming process.

20 So that's essentially why we chose to
21 rename the program once we move it into Title 24.
22 So, you know, that's the motivation behind it,
23 really, is just to make a distinction between the
24 code compliance component of this program and the
25 voluntary home rating portion of the program.

1 Let's see. As far as the rest of these
2 ideas that you have, I think these are good
3 ideas. I would encourage you to actually submit
4 these in writing to our docket, and let us kind
5 of consider them.

6 I can say, just off the cuff, your
7 example of, you know, if you have an installed
8 HVAC system that has the serial number scraped
9 off or scratched off, especially if looks like
10 it's kind of intentional, that would definitely
11 raise my eyebrows. I would be concerned about
12 that, and I don't know if I would want to approve
13 that.

14 You know, I think that's something that
15 you have to, as a rater, look at and say, "Okay.
16 You know, what's going on here? This doesn't
17 smell right, and maybe I don't want to put my
18 name to this, and maybe I don't want to put my
19 company name to this," and, you know, maybe walk
20 away from that particular job. That's a decision
21 that every rater and every company has to make
22 when they run into things like that, whether
23 something smells really fishy, and whether they
24 want to risk their company in putting their name
25 behind it.

1 I think I will cut if off, cut myself off
2 there, and, Emily, did you want to hand it off to
3 another member of your team?

4 MS. BARRIERE: Yes. I think Michael had
5 some things.

6 MS. WHITE: I do see Logan Strait's hand,
7 also.

8 UNIDENTIFIED SPEAKER: We're on one
9 monitor right now.

10 MS. WHITE: Okay.

11 MR. BARRIERE: Yes. This is Michael
12 Barriere. I am borrowing Logan's laptop for the
13 moment.

14 So, as I'm understanding the answer, Mr.
15 Loyer, we're basically talking about a two-track
16 kind of system, a rating and a code compliance
17 track, not necessarily two completely different
18 specializations, but, you know, two ways of
19 approaching the marketplace, as you suggested,
20 one voluntary and, you know, one not.

21 I think that's highly supportable, and
22 I'm glad that Emily brought that up, and by
23 "supportable" I mean that there's so much going
24 on out there under the voluntary HERS thing, for
25 example, the EEM through the FHA, perfect

1 example, and there's others, but I wanted to ask
2 a couple -- or make a couple of points.

3 Early on in the proceedings, you
4 mentioned an owner letter that even -- it would
5 allow us to be paid by the general contractor or
6 the subcontractor, but we were to generate a
7 letter that would be signed by the owner.

8 You know, a contract is only as good as
9 the paper it's written on, and you know how these
10 things could spiral out of control, but I would
11 think something like that would include some kind
12 of a fiduciary responsibility, that ultimately
13 the owner is responsible for paying us, and
14 ultimately we are responsible to them as the
15 property owner, and it's really just a
16 recognition that, you know, we're here to do this
17 particular job, and it is required for the
18 permit. That's one item.

19 A second item was, there was talk about
20 having 72 hours to report the results, versus 15
21 tests, and I wasn't clear. Was that 15 tests per
22 day, 15 tests per week?

23 MR. LOYER: Fifteen tests per day.

24 MR. BARRIERE: Per day. Okay. And then
25 72 hours working days, not weekends, of course.

1 I just want to be clear about that. I think
2 that's -- what I see here is a nod towards the
3 bigger rating companies that, you know, have
4 large back-room staff, and they can crank this
5 stuff out quickly, and there's still a question
6 in my mind about their pricing structure and
7 their actual conduct of testing, but that's
8 really just a lead-in.

9 Whatever became of the notion that
10 sampling should or could be gotten rid of? We
11 don't sample, and we don't think it's a good
12 practice, and it does give us a competitive
13 disadvantage against the larger companies that
14 are always intruding in our marketplace. I
15 didn't hear anything today about the whole
16 sampling question, which I know has come up in
17 previous conversations.

18 The other thing -- a couple of other
19 things, real quickly. The HERS rater thing was
20 tied -- the rating of a house on a scale of 100
21 or more was originally tied to -- I believe it
22 was a Department of Energy initiative, some many
23 years ago, that, at the time of sale, a house
24 could be rated in the same way that you have an
25 MPG, let's say, for an automobile, so that it's

1 another tool for a potential buyer to understand
2 what their utility costs are going to look like,
3 and far from, you know, eliminating HERS, per se,
4 is there any discussion that we might try that
5 again here in California?

6 Word is that they tried it in Austin,
7 Texas, and they liked it so much they're still
8 doing it, which could be erroneous, but, as this
9 methodology spreads across the United
10 States -- and I think there's like 25 states now
11 that have signed up for some version of this
12 methodology that we employ here -- that it's good
13 for owners, for buyers, to understand, in this
14 environment, anyway, this inflationary
15 environment, to understand what the utility costs
16 are going to be over time, particularly given
17 that we now have the discussion between
18 electricity and gas and so many other things.
19 I'm sure you get my point.

20 MR. LOYER: Absolutely.

21 MR. BARRIERE: The last thing I wanted to
22 mention was the summary of findings that you had
23 suggested, or someone had suggested, that we
24 present. Was that before we left the property,
25 or as soon as possible after the testing is

1 complete? Because I have several thoughts about
2 that.

3 One is that we almost never get all the
4 testing done in one visit. So, then, are we
5 giving them two or three reports? Sometimes
6 there's stuff that comes up in the context of
7 doing these tests that we want to come back and,
8 as a team, confer about what we saw, and maybe we
9 want to go back.

10 I like the idea of a summary of findings
11 somewhere between the completion of the testing
12 and the issuance of, you know, the final -- I
13 like that project status report. That's really a
14 cool tool.

15 Anyway, those are the kinds of things
16 that impact us as a small business, even in a
17 market that's increasingly being encroached by
18 larger companies, and some of these decisions
19 that are being made are definitely going to
20 affect our ability to compete.

21 Any thoughts on any of that? Thank you.

22 MR. LOYER: No problem. Thank you, and
23 thank you for asking these. These are actually
24 questions that kind of dig into, you know, what
25 it is we -- what our intent is behind these

1 regulations, and I think, like, what was stated
2 this morning from the providers, you know, it's
3 one thing to have the language which are the
4 regulations on the page, but it's the
5 interpretation of those regulations that -- it's
6 really where the rubber meets the road, and
7 really even that's not quite it. You know, the
8 implementation phase of all this is really where
9 it all happens.

10 So, just to dive into a couple of things
11 here you said, so the document that the owner --
12 that we would like the homeowner to sign before
13 you get started on a job there is really an
14 acknowledgment of what the HERS program is, what
15 your responsibilities are, what the contractor's
16 responsibilities are, where those bright lines
17 end up, and what the homeowner should be
18 expecting.

19 So, so often, you know, I think, as every
20 rater out there will attest to, they walk onto a
21 project site with an actual homeowner in an
22 existing building, and the homeowner knows
23 nothing about the HERS program or why they're
24 there, and they think they're just a
25 subcontractor of the contractor, and this is, to

1 a certain extent, a means of doing a one-on-one
2 education of that homeowner.

3 I know we have a greater responsibility
4 to the people of California, in general, to try
5 and educate them, but that's actually a
6 difficult -- a very difficult process to go
7 through, and it's going to take a long time, and,
8 you know, I'm not confident of the results, but I
9 do believe that, when we're talking about one
10 homeowner, where they have a project going and
11 they are now introduced to the HERS program, I
12 think that's a golden opportunity to discuss what
13 the program is, so that they're educated about it
14 and they understand what the program is there to
15 do and what the HERS rater is there to do.

16 As you've also heard from the morning
17 session, when it really comes down to it, you
18 know, having these documents registered, these
19 documents to be signed by the homeowner, having
20 them registered is a difficult process. It's not
21 simple. It is something that we know how to do,
22 and that's why we say it's not simple, because we
23 absolutely know the effort that goes into even a
24 small document being registered. So that's a
25 difficulty, but we do want to have those going

1 out to the homeowners, and one of the ways to
2 ensure that happens is to have it registered.

3 Now, that's not the only way. We are
4 open to other ideas about how that can happen,
5 maybe without registering that document, but
6 that's one way to do it.

7 The 72-hour limit. Yes. We walked away
8 from the 15 registered documents per day,
9 primarily because of a lot of comments that had
10 to do with larger developments and, actually,
11 larger projects, where 15 in a single day was
12 just not reasonable. We tried to save it in a
13 number of different ways, but it ultimately just
14 didn't work out very well.

15 So the three days, 72 hours, we came up
16 with that as a recommendation from one rater
17 company that said that that was -- their internal
18 policies were actually, within 24 hours of
19 testing, it had to be registered. So we looked
20 at that and said, "Twenty-four hours is pretty
21 tight." We think 72 hours is more reasonable,
22 and I think we can interpret that as 72 working
23 hours or three working days.

24 Sampling. So can sampling go away
25 entirely? No, sampling cannot go away entirely.

1 We are restricting sampling to newly constructed
2 buildings only, so, existing buildings, we don't
3 think there's a good reason to continue on with
4 sampling with existing buildings. It doesn't
5 make sense. But for newly constructed buildings,
6 especially when we're talking about developments,
7 larger developments, sampling is one of the most
8 important things to keep in place for the purpose
9 of not slowing down that construction process.

10 The home rating. So you're right. A lot
11 of that home rating, the home rating efforts --
12 there are many -- have come out of the EPA and
13 federal government's efforts to give an MPG-type
14 rating to newly constructed homes. However,
15 California's home rating was not just newly
16 constructed homes. It was existing homes as
17 well, and still is existing homes.

18 One of the competing elements -- and you
19 didn't use their name, but I'll go ahead and use
20 their name. They're called RESNET, and they are
21 nationwide, and they are the ones that are
22 reaching out into 25-some-odd -- a little bit
23 more than that now -- states across the United
24 States, and they are very, very, very similar to
25 the whole-house program that we have here in

1 California.

2 Unfortunately, like I said before, the
3 whole-house program we have here in California is
4 a bit dated, and it's having a difficult time,
5 actually, keeping up. So that's one of those
6 things -- one of the reasons we wanted to keep it
7 by its -- you know, separate it out from the
8 compliance program that we have as well.

9 The summary findings for the owner. So I
10 think one of the critical questions you asked is,
11 you know, does it have to be done as, you know,
12 soon as you leave the property? No, no. That
13 doesn't make sense.

14 This is as soon as the job is complete,
15 or very shortly thereafter, and this is
16 essentially to assure the homeowner, "These are
17 the tests" -- "We came out to your property.
18 These are the tests we ran. These are the
19 results we got." Very often, what we found is
20 the rater would give those results to the
21 contractor, and they would not pass those off to
22 the homeowner, and that created a definite
23 problem.

24 So I don't want to take up too much time,
25 and I see, Emily, you have your hand raised, and

1 it looks like -- Lorraine, it looks like you have
2 your hand raised as well.

3 MS. WHITE: Yes. I just wanted to assure
4 people that we will be revisiting, in a separate
5 proceeding, the whole-house program, the Home
6 Energy Rate System Program. We are looking at
7 possibly even starting those discussions as soon
8 as the fall. So keep an eye out. That will be
9 our next effort in the compliance program.

10 MR. LOYER: Thank you
11 Emily?

12 MS. BARRIERE: Sorry. I don't want to
13 take up too much more time, because we've already
14 taken up a lot, but, on a positive note,
15 something came to me. Maybe adding "inspector"
16 into the name, something like -- I just feel like
17 "rater," you know, it's such a loose term.

18 People don't really understand. They're
19 like, "Yes." Like you said, they get confused.
20 They think we're a contractor. But if we were to
21 add something like "something inspector" into our
22 name, I just feel like it would give us more
23 credibility, and it would give us a distinction
24 between a contractor and what we are, which is
25 really a third-party inspector.

1 Then, also, on the note of what you just
2 said -- and I will be submitting these
3 comments -- requiring some sort of binder, or
4 even a printout, into a compliance packet to be
5 kept on site, I know some inspectors actually do
6 ask for this, and they do ask that everything
7 gets printed out, but some don't. But making
8 that a requirement, you know, widespread, I
9 think, could make sure that the homeowner and
10 everybody, you know, has everything that they
11 need.

12 MR. LOYER: So, yes. There are -- so let
13 me just touch on the inspector element of it. We
14 decided not to use "inspector" because one of the
15 things that we are doing is we are removing the
16 "special inspector" moniker from the HERS
17 program, primarily because that one creates a
18 difficulty for the HERS raters.

19 What it actually requires -- if somebody
20 were to force the issue, a local jurisdiction
21 were to force the issue, a HERS rater could not
22 operate in a local jurisdiction without that
23 local jurisdiction's approval, and that wasn't
24 the intent when that was originally put in place,
25 but, because of the way the definitions of

1 "special inspector" have developed over time,
2 that is sort of the risk at this point, although
3 that really hasn't come up. It's really a risk
4 on paper more than anything else. But that's why
5 we decided not to use "inspector" in the name.

6 The binder on site. Actually, that is
7 requirement in most nonresidential projects, and
8 many local jurisdictions still require paper
9 binders onsite. So it depends where -- you know,
10 who you're dealing with in the local jurisdiction
11 as to whether or not that's required.

12 I think this is Logan Strait again, if
13 I'm not mistaken.

14 MR. STRAIT: Yes, it's me this time.

15 MR. LOYER: It is you.

16 MR. STRAIT: Hey. Logan here. I do a
17 lot of the light work around here.

18 I actually like the idea of the daily
19 kind of debrief that says, "This is what was
20 tested. This was the results," and making that
21 available to the homeowner, because it helps with
22 the education aspect of things, and because it's
23 just kind of a nice, you know, day-to-day record.

24 I do wonder how we can make churning
25 those out as streamlined as possible, and not get

1 bogged down in jargon, because it would be a real
2 hassle, you know, "Every day I've got to type out
3 100, and this was -- you know, the water heater
4 was where it should be in the location, and our
5 value of the ducts," and all the minutia that
6 goes into the actual CF2Rs.

7 My way of thinking is kind of that it
8 would make just as much sense that the homeowner
9 have electronic access to the same forms, like,
10 mandate that the homeowner not only have an email
11 address put in the home page on the CalCERTS
12 file, but actually that they acknowledge and know
13 how to access them, and then they are free to,
14 you know, review or not review the CF2Rs and 3Rs
15 to their own satisfaction, I think would be a
16 happy compromise, just so that I don't have to --
17 or any of us don't have to churn out piles and
18 piles and piles of boilerplate, you know,
19 debriefings, although I do like the idea of
20 debriefing.

21 Also, touching on the home binder thing,
22 I would say that paperless is always a plus,
23 especially in terms of, like, physically
24 delivering a massive stack of papers can be more
25 time-consuming and tedious, and kind of

1 pointless-seeming than anything else, I would
2 think.

3 So paperless seems like a definite plus,
4 but, again, mandating that the homeowner either
5 accept electronic access or we give them the
6 paper thing, just so that the homeowner is
7 required to be aware of what's going on, I think,
8 would be totally a plus. That's my view.

9 MR. LOYER: I appreciate that, Logan.
10 Thank you very much. I'm going to go ahead and
11 just let those statements stand, if you don't
12 mind.

13 So, Emily, did you have a last comment
14 there? I see your hand is up.

15 MS. BARRIERE: I'm sorry. I just need to
16 lower my hand.

17 MR. LOYER: Okay. So, with that,
18 Alfredo, I believe that we will let you have the
19 floor there.

20 MR. BACCARI: Okay. Anyway, good
21 afternoon to everybody. My name is Alfredo, and
22 I'm the principal of Elem3nts. Well, our company
23 is in San Jose, is in Bay Area, San Francisco Bay
24 Area, and let me see if I can share my screen,
25 and the way I can try. I have a PDF I would like

1 to share. Let me see if I can.

2 MS. WHITE: Alfredo, you should have --
3 on the Zoom control bar, you should have a share
4 screen element.

5 MR. BACCARI: Yes.

6 MS. WHITE: Go ahead and use that.

7 MR. BACCARI: Yes, I'm there, and,
8 well --

9 MS. WHITE: I can certainly do a share
10 screen for you, if you'd like.

11 MR. BACCARI: Yes, if you don't mind. I
12 have -- yes. This is a laptop. I'm going to try
13 to do this share PDF. Let me see. Maybe not.
14 This one.

15 MS. WHITE: There you go.

16 MR. LOYER: There you go.

17 MR. BACCARI: Yes. It was the easy one.
18 Okay. Great. Let me see. Can I go after there?
19 Yes. We're good. Okay.

20 Well, to begin, let me say we prepared
21 this presentation in short time. Therefore, we
22 tried to put together a few different points that
23 we want to share with everybody. Maybe there is
24 not a specific goal that I may be asked, but we
25 want to bring on the table, basically, our

1 experience, as a rater, as raters, as a group,
2 and maybe discuss today, or maybe discuss another
3 time, but we want to absolutely bring these
4 different points.

5 Let me say that -- I want to try to make
6 it short a little bit. Let me say that we
7 noticed that we focused a lot on this discussion,
8 and in queue for this discussion, on the bad
9 apples, on what has been bad.

10 Well, personally, I think this program
11 has been excellent for years. I start many years
12 ago. I have like 30 years of residential market,
13 but, obviously, I've been on energy efficiency in
14 the last 15-plus years, a gigantic difference
15 between our clients. Fifteen years ago, they
16 didn't know anything about. Today is complete
17 different. The improvement is big.

18 Obviously, what I'm trying to say is
19 that -- also, one more thing I want to say.
20 Residential market, the construction, has been
21 always a jungle, have been always too many
22 trades, too many people involved. Now, the magic
23 rater, or inspector, or energy, is going to come
24 in place and magically resolve the problems.
25 It's impossible.

1 I mean, personally, I -- obviously, we
2 need the structure. We need something solid.
3 For example, if I'm going to suggest the word
4 "inspector." Well, sorry. We cannot use it,
5 but, obviously, give it to us, any presentation.
6 I'm a rater, I'm inspector. That one is
7 important everywhere, particularly on the field,
8 when you introduce yourself. But let's go
9 forward, then, with one more thing -- two
10 more -- well, two more things, two points, two
11 most important points.

12 The first one, we don't think that the
13 rater is the problem. We believe that the
14 process is the problem, and there is one more
15 thing, and then I'm going to explain what we
16 propose. There is one more thing that we notice,
17 and, obviously, we can say, "New construction and
18 alteration of construction." Existing homes are
19 different things.

20 In this case, we maybe -- probably we
21 talk more about alteration project, the existing
22 homes. But we know this, is that, at the end of
23 the process, it's not working well. In life, we
24 know that we don't like surprises, and it's the
25 same, identical situation when it's bad.

1 When the test fail is a bad surprise.
2 The homeowner is not happy. The rater is not
3 happy. The contractor is unhappy. Therefore,
4 basically, all the subjects, they have an issue.
5 Therefore, basically, we think that -- and, as
6 you can see, we would like to propose -- this is
7 going to answer, basically, what we noticed, what
8 the problems we having on the field.

9 What we would like to propose is
10 eliminate bad surprise, and try to make a process
11 different, slight different. A solution would
12 be, have required duct test before. We
13 believe -- and let me also explain why.

14 We have a company that one of the service
15 that we propose is the whole assessment, the full
16 assessment, the flow, duct test, the blower door,
17 insulation checking, everything for existing
18 homes, and we have been proposed this service
19 before 2014, before HERS test was implement in
20 Bay Area, before -- and we had the client that
21 were interested. No more.

22 At this point, we know for that -- to
23 have that -- we know that the homeowners will be
24 interested. We know that homeowners want to
25 know, and today we also know that the contractors

1 we work with, they proposed a duct test initially
2 to see the real situation.

3 Let me give an example. If you go to the
4 doctor, he will not open surgery on the heart or
5 open air. He's going to want analysis test,
6 blood test. He's going to understand what you
7 have, and then, after, sharing information about
8 the existing duct test, for example, could it be
9 implement on the CF1R, and say, "Well, the
10 test -- the result of test." At that point,
11 homeowner, clients, obviously, and the
12 contractors, they will know, and they could work
13 better. They would know through price at the
14 end. The test will be the same.

15 Also, there's one more thing make the
16 process so complicated. I'm sure, if we have the
17 right people on the field to make so complicated
18 (sic), we have difficulty to find the new kids,
19 new raters, or new energy inspector, as I would
20 like to call them, to -- for have this process
21 really complex, with a different structure, I
22 don't think it's going to work, for in general
23 speaking.

24 But back to the point, and to
25 representation. Obviously, we have a different

1 point here. As you can see, try to see if there
2 is any collaboration between the Energy
3 Commission and the building inspector, because
4 that one is important key.

5 Offer incentives, another big point we
6 would like to bring to your attention. We see,
7 because we are in the program, through PG and E,
8 Barron (phonetic), and other programs -- now we
9 have a PCE (phonetic) and more -- they offer
10 rebates. They offer incentives. Why don't do
11 the same for duct test, initial duct test, not
12 for after, initially, because that one is the
13 key?

14 Building permit. Obviously, if there is
15 anything we can do through the CF1R, would be the
16 easy way.

17 Support. We talk with homeowners
18 continuously. What also we notice -- and I have
19 to drink water. Give me just a second, please.

20 Okay. I'm back. Again, have, obviously,
21 support, to support what? Not just us. We're
22 talking about -- continuously about raters today
23 having to know more and more. Why only the
24 raters? I work with building permit. I work
25 with the builder -- the city inspectors.

1 I work with the contractors. HVAC
2 contractors are different contractors. They
3 don't know. I have a phone call from contractors
4 that called me today, after, well, nine, 10 years
5 of duct tests, and asking me, "What is this? The
6 inspector told me that I need to have some
7 tests." Really, after 10 years? For we should
8 start to collaborate with all the people in the
9 field, not just the raters.

10 Couple more pages. Resources. Yes.
11 Well, again, I will be happy to share all this
12 information later on, and copy them, but,
13 obviously, have a website, a California label,
14 where we can point to our clients. We can say,
15 "Look. This is a page of the California (sic),"
16 create a permit whether to -- this was difficult,
17 but create a pre-permit application. We've been
18 talking for years, but that term will be another
19 one.

20 Quality control for the bad apples,
21 absolutely. Why not? Pictures, any kind of
22 documentation, we would applaud. We take
23 pictures continuously. Therefore, we will be
24 happy to upload them, and able to prove all other
25 things.

1 Let me see. Well, here we write down
2 "Energy inspectors." Obviously, based on our
3 experience, we really believe that we can help to
4 grow. We can help to make this goal happen. We
5 can do it. We need your support, but, also, we
6 need the approach for different site, and not
7 make more complex what is. We believe that the
8 program is already good enough. Few adjustments
9 will be great.

10 And with this, I am enough for now. I
11 want to give it back to you.

12 MR. LOYER: Okay. So, Alfredo, yes. Go
13 ahead and stop sharing if you'd like, but can I
14 ask you to send this presentation to either
15 Lorraine or I?

16 MR. BACCARI: Absolutely. I will give
17 that.

18 MS. WHITE: Actually, I do have Alfredo's
19 presentation.

20 MR. BACCARI: Yes.

21 MR. LOYER: Excellent.

22 MS. WHITE: I just needed to confirm,
23 Alfredo, that you do not mind us posting this to
24 the docket.

25 MR. BACCARI: Go ahead.

1 MS. WHITE: Okay. Excellent. Thank you.

2 MR. BACCARI: And I guess it stop sent to
3 you (sic). No, stop (indiscernible). Done.

4 Yes, I'm back, sometimes.

5 MR. LOYER: Well, thank you very much,
6 Alfredo. So I don't think there is anything that
7 I wanted to respond to at that particular time.

8 I think we are -- just taking a quick
9 look at the schedule, Lorraine, did we want to go
10 into the comments portion of this now?

11 MS. WHITE: Do we -- okay. So there were
12 also some additional comments that we had asked,
13 and I wanted to make sure that everybody had a
14 chance to cover those questions. They were
15 circulated to you last couple of days, but it
16 really gets to, for the smaller companies, when
17 we look at the proposed changes that are being
18 made -- this is the larger company slide, Joe.

19 MR. LOYER: Sorry.

20 MS. WHITE: It's the one just before it.

21 So, when we're looking at the changes
22 that we're making -- and I know Emily already
23 discussed this a little bit -- is there, from
24 your perspective, some of the impacts that the
25 Energy Commission needs to be made aware of, and

1 do a more thorough job evaluating, or work with
2 you to better understand whether they're positive
3 or negative?

4 Alfredo or Emily, Michael, feel free to
5 chime in.

6 MR. BACCARI: Okay. Emily, you want to
7 do, or I -- I'm here now.

8 No, I don't think that they're going to
9 change a lot for small companies, honestly. Our
10 company is 10 people, 11. I'm not sure if -- so,
11 obviously, I'm not sure I'm talking for the
12 company that has two people. That one,
13 obviously, it can be challengeable (sic). For
14 us, it's a little bit -- I don't see any major
15 changes.

16 Obviously, again, we would like to
17 participate more, yes. We would like to have
18 some input, some extra input, and it will be
19 great if you're going to invite me again to
20 discuss, point by point, or at least the
21 one -- the points that you think are more
22 important on the presentation, but, on their own,
23 I don't think there is big major changes, or
24 major problems, for our company.

25 MS. WHITE: There is one I do want to

1 follow up with you on, and it's in your
2 presentation, and it's building a better
3 collaboration with the local jurisdictions, with
4 the AHJs.

5 How do you see that actually taking
6 place? Are there steps that you recommend the
7 Commission consider? Have you seen things that
8 work that you'd like to suggest us do? What
9 would the nature of that collaboration look like?

10 MR. BACCARI: You're talking about the
11 collaboration between the Energy Commission and
12 building inspectors?

13 MS. WHITE: Yes. Local jurisdictions,
14 yes.

15 MR. BACCARI: Well, I don't know how does
16 it work politically. I know that I've been
17 talking with building inspectors, most important
18 because we provide the building permit for
19 contractors. So we've been talking with the
20 permit -- with the institution, with the cities,
21 and also with who sue the permit end (sic).

22 We try to talk with them because today
23 it's ridiculous sometimes. We have to spend
24 three months in Palo Alto to get the furnace. I
25 get on AC unit (sic). I believe that is

1 impossible, spend so much time for a simple AC
2 unit, because, at the end of the process, we
3 tried to explain them that the process is not
4 working well. The process make people far away,
5 to go far away. How you can work?

6 Well, Energy Commission should be able to
7 talk with them, and maybe facilitate -- I think
8 the key is a building permit. If we can have a
9 simple or simpler process for the building
10 permit, I'm sure that that one will be gigantic,
11 because we will have in the field, after or
12 before, a building inspector and an energy
13 inspector, as I would like ask to be called.

14 But, anyway, the point is that the
15 homeowner will have two people at least, two
16 independent people, to talk with, and to have
17 better information. Obviously, it will be
18 clearer. Come at the end, it doesn't work well,
19 because we cannot be the bad people at the end of
20 the process, and it's not working.

21 Obviously, I can tell you this, that I've
22 been working for 10 years with the contractors.
23 Wow, they change a lot. They have been changing
24 a lot for there is to assess (sic), but,
25 obviously, go back to the point of the building

1 permit inspection, energy. I think you guys can
2 influence them and talk with them, but how I
3 don't know.

4 MS. WHITE: I really appreciate the
5 thoughts, though, on that, Alfredo. It's giving
6 us a lot to think about.

7 On that topic, any other ideas? Emily,
8 Michael, Logan?

9 MR. BACCARI: Well, I have one question,
10 and my question is to you, Joe and Lorraine. My
11 first point -- what do you think about the point
12 that we tried to -- the duct test before? What
13 do you think?

14 MR. LOYER: So I can answer that. So,
15 when it comes down to it, the Energy Commission
16 has got certain authorities and certain
17 limitations, so we can't extend an authority
18 beyond -- you know, a service or requirement
19 beyond our authority. So it depends on how we
20 end up implementing something like this.

21 So there is a big difference between a
22 utility incentive program and just a plain
23 project to change out an HVAC unit, say. What it
24 comes down to, if you sign up for the utility
25 incentive program, that's your first act. That

1 comes from the project owner or the contractor
2 that they're working with.

3 They get involved in that, in that
4 utility incentive program, and the utility
5 incentive program very often, for HVAC projects,
6 especially when we're talking about ducts, they
7 do require a before and after. That's part of
8 the CPUC's requirements, ultimately, to prove
9 that what they're doing as their incentive
10 program actually did reduce energy usage. So, in
11 that sense, it's not only a good idea, it's been
12 proven to be a good idea.

13 Now, does the Energy Commission have the
14 authority to say, "Prior to pulling a permit, go
15 and do this test"? No, we don't have that
16 authority. Our authority only comes into play
17 when a permit is actually pulled. At that point,
18 you can go and start making requirements.

19 We've never made the requirement to do a
20 before-and-after test. It's a really good idea.
21 Unfortunately, if you think about the energy
22 savings -- and one of the things that the CEC
23 does have to do is we have to make sure that any
24 changes we make are cost-effective, and those
25 costs have -- that cost-effectiveness analysis

1 has to say, "Okay. This is how much it costs to
2 implement this particular measure. This is how
3 much energy it's going to save, translating that
4 energy into dollars, and then this is how much
5 money you're going to save at the end."

6 So that's how we do the
7 cost-effectiveness eval. It's way more involved
8 than that, as you might imagine, but, in simplest
9 terms, that's what we do. So, if we were to say
10 right now the requirement is to test after, but
11 we want to make the requirement to test both
12 before and after, that means the effectiveness of
13 that particular measure, say, duct testing, is
14 now going to the cost-effectiveness of it, is now
15 going to be reduced, because it's now going to
16 cost more up front to actually do it than it
17 would, because now there's an additional test on
18 the front end of the project.

19 So that makes it very difficult for us to
20 actually implement something like that. Now, it
21 doesn't make it impossible. It just makes it --
22 makes us have to look at it more closely and
23 carefully and say, "Okay. We compare not to the
24 situation of there being no regulations in the
25 world, and these regulations dropping in from

1 space. We compare the new regulations to
2 the -- just to the most recent regulations."

3 So, for 2025, we will compare the
4 cost-effective change from 2022. So you can see
5 this makes it difficult for us to require
6 something like along these lines. It's not
7 impossible, just difficult.

8 Now, as a good business practice, it is a
9 really good idea, and if you can reach out to
10 your contractors that you're working with to
11 suggest that this is a good idea not just for the
12 contractor, but it's actually a much better idea
13 for the homeowner to understand what it is they
14 need to do when they come in to -- when the
15 contractor comes in and says, "We might want to
16 replace this HVAC unit," or "We might want to put
17 better insulation into the ceiling," or "Maybe we
18 might to replace the furnace and water heater,
19 both together at the same time." They can come
20 in and make an assessment for them to see just
21 how good or bad their current situation is, and
22 give them some good, honest advice as to what can
23 be done.

24 Kind of one of the funny things about all
25 that, that is part and parcel with the

1 whole-house program that California put together.
2 That's why it was put together for existing
3 homes, is to not only give them a rating, but
4 actually give them a list of projects they can
5 use to improve that rating, and do that on a
6 cost-effective basis.

7 So the most effective measure that you
8 would have on a whole-house assessment would be
9 the first one listed, and in most instances,
10 that's going to be insulation. It should be no
11 surprise to anybody. The second one is going to
12 be, most likely, lighting, or it's going to be
13 HVAC, and in that, HVAC, it's going to be duct
14 sealing.

15 So, in those kinds of situations, the
16 whole-house program, the California whole-house
17 program, really goes above and beyond even what
18 the national programs like RESNET, which are
19 focused on, you know, newly constructed homes.
20 The California whole-house program goes beyond
21 that, and actually tells people who have existing
22 homes exactly what they can do to improve those
23 homes. So that's another reason why, you know,
24 we're looking forward to the rulemaking to come,
25 hopefully, this fall for whole-house.

1 So how was that? Was that good enough,
2 good answer for you?

3 MR. BACCARI: Thank you. Absolutely,
4 yes. Thank you, Joe.

5 MS. WHITE: And, Alfredo, a lot of the
6 comments that you and others are making on
7 process we definitely listening to. Anything we
8 can do to improve the process we will be
9 investigating. So your suggestions are very
10 appreciated.

11 Emily, you had some input?

12 MS. BARRIERE: Yes. Just, actually, in
13 response to Alfredo, who I think is very smart,
14 there is actually something that does exist
15 currently. It's called "preexisting conditions."
16 This is actually something our company
17 specializes in that a lot of other companies
18 might not.

19 It's normally used with larger remodel
20 projects because, I guess, the rules are
21 different, because, when you pull a permit that's
22 only an "also to" for HVAC only, you're allowed
23 to start the work right away, but with larger
24 permits, you have to wait until the permit gets
25 approved.

1 So that's where the preexisting
2 conditions report comes into play, because it's
3 used to help those projects which have a hard
4 time getting approved, or maybe the person is
5 worried that it won't get approved. So we will
6 go in there, and we actually do look at the
7 existing conditions.

8 It's not required that we do any testing,
9 but our company actually does testing. We will
10 do duct leakage testing. We do the blower door
11 testing, which is the entire building leakage
12 diagnostic. We do all of these things, which is
13 above and beyond what's required, so that we can
14 present it to our company, the architect,
15 usually, who we're working with at that point, to
16 give them a full scope of what the margin is
17 going to be of improvement.

18 So I definitely think that that could be
19 possible to implement with HVAC, but, once again,
20 you would have to have a rule in there that you
21 can't start work right away, you have to wait
22 until the permit is approved, and -- yes. So
23 that's my thoughts on that.

24 MS. WHITE: Thank you.

25 Joe, just a time check.

1 MR. LOYER: It's 2:00 o'clock.

2 MS. WHITE: We're right at 2:00 o'clock,
3 and I do know that there are several questions in
4 the Q and A.

5 I want to let folks know that we will be
6 having a public comment period at the end of the
7 day, after our third panel. So, looking forward
8 to having folks who have got questions, and, like
9 I said, there are several in the Q and A.

10 Please avail yourself to the opportunity
11 to speak during the open public comment period.
12 It should be happening in about an hour and a
13 half.

14 So we're going to take a quick 20-minute
15 break, and then we'll get set up for our third
16 panel, and, yes, we'll resume at 2:20. Okay?
17 Thank you.

18 MR. LOYER: All right. Thank you.

19 Thank you to all the panelists that were
20 here. Thank you, Alfredo. Thank you, Emily.
21 Thank you, Michael.

22 MR. BACCARI: Thank you.

23 MR. LOYER: Thank you, Logan.

24 (Off the record at 2:02 p.m.)

25 (On the record at 2:20 p.m.)

1 MS. WHITE: All right. So now we will
2 begin our third panel, and today we have invited
3 Eric Beriault from EnerGuy and Elizabeth Blythe
4 from ARCXIS. In addition to Elizabeth, we also
5 will have the pleasure of Jonathan Risch being
6 available to provide comments as well.

7 Eric, did you have others that also would
8 like to make comments along with you?

9 MR. BERIAULT: Yes. Stephanie is going
10 to be joining, so, yes.

11 MS. WHITE: Good. Okay. Excellent.
12 Thank you. So Stephanie will be joining the
13 comments to be made by EnerGuy as well.

14 Hello, Jonathan. Thank you for joining
15 us.

16 MR. RISCH: Thank you for including us.

17 MS. WHITE: You bet.

18 MR. RISCH: I'll be handling the comments
19 from our team, and then Elizabeth and Ian
20 Jacoby -- I believe Ian is on as well, or
21 available in terms of any questions that might
22 arise.

23 MS. WHITE: I do believe Ian is one of
24 the participants, and if he wants to jump in, I
25 can easily unmute him so he can (indiscernible).

1 Okay?

2 MR. RISCH: Thank you.

3 MS. WHITE: You're welcome.

4 So we'll start with Eric. Eric, if you
5 would like to begin your comments. If you have a
6 presentation, you're more than welcome to share
7 your screen. If you want to just be making some
8 comments, that is fine, too.

9 MR. BERIAULT: All right. We've got a
10 couple slides here.

11 MS. WHITE: Okay. Excellent.

12 MR. BERIAULT: Okay. All right.

13 MS. WHITE: Great. We can see them just
14 fine. Thank you, Eric.

15 MR. BERIAULT: Perfect. Okay. Thanks
16 for doing this. You know, it's been really good
17 to, I guess, get back in the swing of things
18 after a couple quiet years. I definitely prefer
19 to do these in person, but this is much more
20 efficient. So, anyway, it's been great to get
21 reengaged, and it's good to see all the different
22 people that have been joining, and lots of
23 comments, which is fantastic.

24 So my name is Eric Beriault. I'm the
25 president of EnerGuy. We started doing HERS

1 testing in California in 2010, I guess is when we
2 came on the marketplace. So we've been building
3 our business since then, and, you know, along
4 with everyone else, just trying to figure out how
5 to make this thing better.

6 All right. So we just -- we've got a few
7 slides here. I'm going to kind of go through
8 these quickly, and then Stephanie -- it looks
9 like Stephanie is here, so she can add any
10 feedback afterwards, but, anyway, this one is
11 pretty self-explanatory. We're going to be
12 submitting this presentation as soon as I'm off
13 the call today, so you'll have that.

14 All right. So Contractor A -- I know
15 that this is off the radar now, but we actually
16 had quite a few internal discussions on this, and
17 we're, like -- I was actually on the "Yes, it's a
18 good thing. Like, I actually want it to happen."

19 The reason that got me off of that was I
20 realized that -- and we realized from experience
21 that once -- and our presentation is from the
22 alterations world. That's our focus. So,
23 essentially, once a contractor is done, and, you
24 know, we've done our testing, they've essentially
25 lost interest in everything.

1 Like, if we don't get in there as soon as
2 the install is done, they don't want us in their
3 home anymore, right? "My AC is working. Leave
4 me alone." So we've got to get in there pretty
5 quick.

6 In any event, what we feel would happen
7 would be that, if the homeowner were to pay us,
8 they might not take the appointment, because
9 their install is done, so that means the permit
10 would never get closed. So there is no incentive
11 for them to complete the process. So that's
12 really what got me off of "It would be a good
13 idea."

14 So, down the road, as we brainstorm way
15 to include the homeowner, I think that should be
16 back on the table as a conversation piece, but
17 only if the homeowner maintains engagement in the
18 process, I think, is kind of our position now.

19 So we talked about the daily limit a
20 little bit. It looks like it's been removed, so
21 we're supportive of that. There's varying
22 reasons why. Some of it is sampling, new
23 construction.

24 We see the value in it, but I do have a
25 question, and maybe it's answered. I'll be

1 honest. I didn't read, line for line, the update
2 that was put up a couple weeks ago, but, anyway,
3 my concern would be, how do we police or ensure
4 that the 72-hour rule is enforced? So maybe
5 that's something that -- I know Joe has been
6 taking notes, and maybe he can answer that later,
7 or you can, Lorraine.

8 All right. Same thing here (indicating),
9 you know, another question. We don't have
10 jurisdiction, and no one has jurisdiction over
11 the contractor, obviously, so how do we enforce,
12 like, the rater-shopping rule? How would we look
13 at that? I do know one of the providers made a
14 comment about allowing it to be switched within
15 the rater company, which I support that as well.

16 Okay. So verified raters, a great idea.
17 Actually, I think it will bring value. I know
18 that our raters -- we have some raters that have
19 been with us for 10 years. I think that this
20 would increase their level of pride in their
21 work, but the five-year thing, like, it doesn't
22 necessarily mean you have that experience.

23 You know, like, I've been VPI (phonetic)
24 certified for nine years, but that doesn't mean
25 that I'm the expert in VPI, right? I have raters

1 on staff that have done way more jobs than me,
2 but have been certified for not as long. So I
3 think we need a combo here, some experience, and
4 definitely 10-year.

5 All right. Training. We love training.
6 We love the idea of, you know, having the
7 providers provide different kinds of training.
8 Now, it is costly, and some of these proposals
9 are varying, adding a lot of costs to the
10 provider, which I'm not in favor of adding more
11 costs to the program, but I do see the value in
12 training. So, if there's a way to do, I think,
13 maybe, as effective as possible, maybe it's an
14 annual event, you know, where there's -- it's an
15 annual training event.

16 You know, I know a lot of the suppliers,
17 the distributors. They would welcome this. Some
18 of the contractors would welcome some additional
19 training as well, and then some large rating
20 companies, and even smaller rating companies, I'm
21 sure, have an -- well, I know they have an
22 internal training process, and maybe there's a
23 way to certify that through the providers, where
24 that might be a more cost-effective way to do
25 additional training, but offsite is always good

1 as well.

2 We're definitely in favor of coming up
3 with a solution so that our raters are better
4 trained, and consistently trained, because we've
5 noticed, you know, even -- and we're in favor of
6 QA. Like, recently we had a couple QAs, and we
7 had a couple things pop up, and we were like, "So
8 maybe that guy needs a refresher. Maybe we're
9 not calibrating our equipment, you know, enough."
10 You know, whatever it is, any feedback is always
11 good, so we're in favor of that.

12 So, pictures, 100 percent. Here's our
13 policy on pictures, right? Like, we have to do
14 it, because we do our internal QA, and if there's
15 no pictures, how do we stand behind your work,
16 right? So we harp on this weekly. We have our
17 weekly rater calls. We harp on this weekly, and
18 we have to keep doing it, insistently, all the
19 time.

20 All right. So here's some additional
21 comments. So, when we meet with contractors, we
22 kind of establish, you know, what they feel is an
23 acceptable pass rate for their jobs, meaning
24 where do they want to be, not, like, what do we
25 need to do? It's really what they need to do,

1 and we're going to verify it.

2 So we meet with them monthly and we give
3 them reports. This is the goal, 98 percent,
4 because you're never going to get to 100, but
5 sometimes it's 95. Okay. So why? Ninety. All
6 right. What's going on, right?

7 So, when we provide those numbers to them
8 monthly, we find that sometimes it's -- a lot of
9 the times, it's a specific install group that's
10 giving all the issues. Maybe they're new. Maybe
11 they're on their way out the door. You know,
12 there's a lot of different reasons, but we
13 provide the information back to the contractor so
14 that -- and we spend time with our installers.

15 Contractors are crazy. They get up super
16 early. Like, we're in their office at 6:00 in
17 the morning doing install training before they're
18 (indiscernible), and, actually, one of the
19 contractors we work with, they hand out their
20 paychecks. So we go do a training and that day
21 is paycheck day. So, if you don't jump in the
22 training, you don't have your paycheck. "What's
23 up?"

24 So, anyway, it's pretty funny how they do
25 it, but, anyway, so that's -- having the

1 communication and the collaboration with the
2 contractors -- like, the ones that we work with,
3 they want to do it right, right? So I'm really
4 looking forward to the conversation of the 85
5 that aren't doing it. You know, that's not part
6 of this, I know, but I'm going to bring it up a
7 couple times just because I can. All right?

8 All right. So I heard a good comment
9 from, I think it was, Kevin, earlier today, just
10 about what bodies -- who can actually help us
11 with this, and who has a responsibility to the
12 consumer, and one of them was the CSLB. So I'm
13 just wondering, you know, how come the CSLB is
14 allowing HVAC contractors to do unpermitted work,
15 right? Like, that's a big one. That's a big
16 one. So they'll have to be part of the
17 conversation going forward, 100 percent.

18 I think this was an easy one
19 (indicating). You know, if I get decertified
20 over here (indicating), I shouldn't be able to
21 work here tomorrow. You know, take the
22 (indiscernible) test, work there tomorrow.
23 There's got to be something there.

24 Maybe there's exceptions, but there's
25 always -- you know, there's always exceptions,

1 but, you know, I believe that if it's -- the
2 reason that they're decertified over there should
3 be shared, and should be honored across
4 providers. I think that's how we raise the bar.
5 I'd like to hear the -- I'd like to hear any
6 arguments against that, because there's maybe
7 something I'm not thinking about.

8 Same thing here (indicating), just a
9 little more clarification. We're talking about,
10 you know, more regulation, and being able to
11 regulate rater companies, which we're in favor
12 of. We don't like more administration, so,
13 hopefully we'll minimize that, but we're in favor
14 of it.

15 All right. So, concentrating, oversight,
16 quality assurance, so, like, if we were to do an
17 extra two days of training per year, per rater,
18 it would probably be about \$5,000 a rater,
19 because it's not just their wages and travel time
20 we'd have to pay. It's also the opportunity,
21 cost of the revenue that we weren't able to
22 complete.

23 So that represents approximately, you
24 know, eight percent of their salary for the year,
25 so it's a significant increase. We're in favor

1 of training and development, but, if there's a
2 way we can do it cost-effectively, like, that's
3 the way to go, I think, because we all know that
4 eventually anything will work its way down to the
5 homeowner, and that's who underlying pays for it,
6 right?

7 All right. So, in the past, you know,
8 permits and HERS was -- at the beginning, it was
9 taboo, but now I think -- I still think there's a
10 path where we can -- the HERS rating companies,
11 if they choose to, they can pull the permits.
12 Like, in our case, you know, our raters that are
13 testing aren't pulling permits. We have staff
14 that do that.

15 I don't see the conflict in there
16 that -- the conflict isn't -- because we're
17 acting on behalf of the contractor, but the
18 contractor is taking responsibility for the
19 permit. So we're really just an administrative
20 service in that case, but I think it's essential
21 because everything is so intertwined.

22 You know, getting a contractor to pull up
23 -- to do their own CF1R is a challenge as it is.
24 So to have them even share that information with
25 the rating company, you know, obviously, there's

1 ways for the registry to do that, but anyway,
2 everything is intertwined. It's important.

3 What we do is we partner with our
4 contractors. We want them to focus on doing --
5 excelling in installing, you know, and doing
6 quality installs. That's what we want them to
7 do. Let us do the rest, make it easy, make it
8 easy for them to comply, right?

9 All right. Actually, I want to go back
10 to a point. So, a bunch of years ago, there was
11 a number of us -- and, Lorraine, I'm pretty sure
12 you were there -- at the WHPA meetings. We'd
13 done a lot of good work, and one of the things
14 that we actually did was we looked at the
15 requirements -- and there was a bunch of
16 different committees, but we looked at the
17 requirements in the code book for a building
18 permit, like, what were the minimum requirements?
19 And I think there was a 90 percent overlap with
20 the CF1R.

21 CF1R was just missing a couple of
22 key -- a couple of, like -- some legalese that it
23 didn't have, but the overlap was incredible. So
24 streamlining the permitting, possibly using a
25 modified CF1R as the permit application, you

1 know, that's something I'm sure the providers
2 would be more than happy to do.

3 So there's some good opportunities there
4 on the technology side. I think the hard part
5 was, you know, getting all the jurisdictions to
6 want to do something, because everyone was --
7 people were working on their own solutions. But
8 you know what? Maybe we can make it easier for
9 50 percent of the billing departments, and that
10 makes it just so much easier. So, definitely
11 some work that we can do there, so we're looking
12 forward to that.

13 Another slide.

14 All right. So, if the average person
15 could read a CF3R, right, we would just need to
16 require that the homeowner has a copy. I think
17 that would solve a lot of it. I know from our
18 previous discussion that it's easier to add a new
19 form than it is to modify the existing one, so, I
20 don't know.

21 I hope that we're a part of the process.
22 I know that you're probably going to work on
23 that, like, as part of this process. So we'd
24 like to give some suggestions and, hopefully,
25 make it a lot easier for everyone.

1 All right. Stephanie, do you have
2 anything to add to the --

3 MS. SMITH: No, I don't. I think we've
4 asked for clarification on a few points, which I
5 assume will come later, as to where the
6 enforcement will come from, from some of those
7 changes, and what the consequences may be if
8 there is noncompliance with that.

9 I agree with -- well, our comments are in
10 there, and the last thing I would have to say is
11 about streamlining the permitting process, and
12 working together, and actually getting
13 substantial data prior to making such a gentleman
14 rule change. So, no, I'll (indiscernible).

15 MR. BERIAULT: Thank you.

16 MS. WHITE: Thank you. And I will try
17 and address some of the questions that you have,
18 but, after Jonathan has had a chance to speak,
19 we'll have a few minutes to chat afterwards.

20 So, Eric, I might ask you to pull up a
21 couple of your slides again when we get to that
22 point.

23 At this point, I'd like to pass it off to
24 Jeff (sic) and Jonathan with ARXIS, please, and,
25 Elizabeth, I believe you're also on.

1 MR. RISCH: Thank you, Lorraine, and
2 thank you for giving us the opportunity to
3 participate on this panel. I hope you can hear
4 me okay.

5 MS. WHITE: Yes, we can.

6 MR. RISCH: I'm not familiar with all
7 this Zoom technology.

8 First of all, I'd like to say that much
9 of what Eric showed we would concur with. He had
10 some really good points in his slides. I was
11 quickly scrolling, going on it, trying to add
12 them to mind, but then I realized we've already
13 submitted these remarks, so we'll have to do that
14 in a separate document.

15 As you already introduced, my name is
16 Jonathan Risch. I'm here on behalf of ARCXIS.
17 We're the largest rating company in California,
18 conducting over 60,000 inspections per year, both
19 on new and existing homes. I think that also is
20 somewhat unique on these panels.

21 As I've been listening, I think they've
22 been very focused on -- most of the providers
23 have either been discussing new homes or existing
24 homes, and I don't think a lot of -- I'm sorry,
25 not providers, excuse me, rating companies. I

1 think that what we do is providing a service to
2 our customers, so I drop into that language
3 occasionally.

4 Anyway, we're working both with new and
5 existing homes, and I think that is one of the
6 areas where we're going to be seeking greater
7 clarification in this process, because some of
8 the rules make sense for existing homes, and that
9 process, for example, we would concur. I don't
10 know how you sample existing homes. I just don't
11 understand how that would even work.

12 I do think that new homes, on the other
13 hand, can be sampled, different discussion as to
14 whether or not that makes sense, but, you know, I
15 think, therefore, as we look at these processes,
16 we may want to be doing more to differentiate
17 between the two.

18 Another area where new versus existing, I
19 think, is an area where we have to think about
20 differently is with the 72-hour rule. The
21 process of providing documentation and
22 registering and certifying, or whatever verb you
23 want to us, for a new home is much more
24 complicated with the CF2R process, and obtaining
25 all those forms before you do the CF3R, and that,

1 in terms of chasing those down from all the other
2 subcontractors and stuff, can take quite a while,
3 and 72 hours, while very reasonable, perhaps, in
4 the case of existing homes, is more problematic
5 in the case of new construction, as what you're
6 doing is orchestrating a process across multiple
7 service providers, subcontractors to that home.

8 We do appreciate the invitation to share
9 our thoughts and comments, as a company that's
10 been on the ground for many years doing this
11 work, and we also hope to learn through this
12 process a lot more about your goals in respect to
13 certain staff recommendations. We have a phrase
14 here at ARCXIS, "Overcome conflict through
15 understanding," in other words, listen before you
16 talk.

17 You know, we're talking before we've
18 truly gotten to listen to all the intent behind
19 it, but we do want to understand that better,
20 because I think, in many ways, we're probably
21 very aligned on the common goals of the
22 Commission, and it's just how do we best achieve
23 these? And we see those goals, really, as, you
24 know, how do we get more permitted inspections
25 completed to help meet the state's climate goals,

1 and how do we ensure a quality end product for
2 the consumer, for the homeowner?

3 In the most recent staff report, the
4 update that was issued about a week and a half
5 ago, we think that several of the amendments were
6 really good additions or changes, eliminating the
7 restriction on the number of documents or
8 inspections that can be completed by a rater.

9 While we would agree there are physical
10 limitations, that you can't go beyond certain
11 numbers, the processes can be very different
12 between different raters based on what is the
13 field rater doing versus what's the support from
14 the office and the staff. Then other things can
15 play into it as well, as density of customer,
16 that sort of thing. So we think that's a
17 definite improvement.

18 Requesting time and date stamp and
19 geolocation. We actively document our
20 inspections with photos. It is an important way
21 of maintaining quality. It is an important way
22 of making sure that the right home is touched by
23 the inspector, and so we fully support that.

24 We appreciate the recognition of allowing
25 rating companies to pull permits. This

1 integrated service, I think, is particularly
2 important, particularly when we look at -- as
3 Eric said, we'd love to see this. We would agree
4 with him. I'd agree with him.

5 We'd love to see this addressed more, but
6 how do you get to the 85 or 90 percent of homes
7 that are doing changeouts that are not even
8 permitted? And if we make that any harder, where
9 do the 10 to 15 percent that are doing it go? So
10 I appreciate that change as well.

11 Also, the move away from homeowner pay,
12 certainly understand the motivation for that,
13 but, given the challenges in just getting -- and
14 I think Eric summed them up very nicely -- of
15 just getting in the home to do the inspection --
16 anything that increase the burden and the
17 challenge to the homeowner is going to reduce the
18 compliance to the process, rather than increase
19 it.

20 There are several key areas we believe
21 require more discussion. One of those, as Eric
22 mentioned and I just mentioned, is we would love
23 to have more discussion about the inspections
24 for existing homes, or the existing homes that
25 are having changeouts that are not being

1 inspected.

2 How are these -- these are not,
3 obviously, meeting the state's climate goals.
4 Those homeowners are not benefitting from this
5 process, and so, you know, how do we increase
6 energy efficiency if we don't address that? We
7 certainly don't want to do anything that could
8 lead to less inspections.

9 Further, we also want to call out a few
10 things that we think might significantly increase
11 the cost, the complexity, and the perceived
12 intrusiveness of the inspections as well. That
13 will lead to less inspections, less benefit for
14 the homeowner, and, obviously, not the outcomes
15 we want. So the ones that I've chosen to
16 address, we've chosen to address today, first,
17 the consent of the homeowner.

18 First I want to say we totally concur
19 with sharing the final reports with the
20 homeowner. We do that today. We've actually
21 equipped -- this is in the case of existing
22 homes. We've equipped our inspectors, our
23 raters, with printers that are in their cars, in
24 our vehicles, and they're printed onsite at the
25 conclusion of the inspection.

1 However, a new requirement to get and
2 submit to the -- and I understood it in the
3 document -- to submit to the provider consent
4 from the homeowner before we do the work adds
5 another burdensome step to the homeowner in this
6 process, and this will in turn add cost to the
7 process by essentially doubling the already
8 challenging process of obtaining the appointment
9 for the inspection, doubling that process, which
10 today can take, on average, six touches. Six
11 reach-outs, either through phone, text, or email,
12 to the customer will add cost for the raters and
13 rating companies.

14 I think what we'd like to understand is
15 really what's the perceived value in adding the
16 step, and I think Joe may have addressed this in
17 the last panel a little bit. You know, if the
18 issue is really getting the customer, the
19 consumer, to understand what's going on, what
20 their rights, what the objectives are, then I
21 (indiscernible) that are something like
22 developing a homeowner bills of rights that could
23 be developed by the providers and rater companies
24 and the CEC that's shared by the raters at the
25 start of the inspection, or maybe by the

1 contractor at the time of the install.

2 This ensure the consumers are aware of
3 their protections, as well as the purpose of the
4 existing process as to the inspection, but
5 doesn't increase the burden to the consumers in
6 multiple appointments and slow down -- and reduce
7 the number of inspections we can complete.

8 You know, I would add, too, even if it
9 was a consent that was done at the time of the
10 inspection, I think we have to consider what
11 happens if the homeowner does not sign that or,
12 you know, refuses to sign that. Do we just not
13 do the inspection, and then lose the benefit of
14 checking the work and making sure that homeowner
15 gets protection? So I think it's very important
16 that homeowners learn more, that they're better
17 educated. I think we can help with that, but I
18 don't think we should make this a burdensome
19 process along the way.

20 One point that hasn't been addressed, and
21 I think it's perhaps more interesting to us,
22 given the large amount of work we do with new
23 construction, is limiting the ability of raters
24 to assist in the design on the systems, and work
25 on that as well.

1 What we find is that working together at
2 the front end of the process is more efficient
3 for all parties involved, including the builder
4 and the eventual homeowner. Systems that are
5 built with a specific knowledge of energy
6 efficiency requirements improves the quality of
7 the final product, eliminates unnecessary
8 repetition of site visits, and gets a better
9 result for the homeowner.

10 In design work -- and I think, you know,
11 us and any designer would agree -- we don't
12 specify parts or equipment. That is usually,
13 almost always, specified either by the builder,
14 based on their national contracts with the
15 manufacturers, or by the installer, but, with our
16 deep knowledge of the mechanical engineering and
17 the energy processes, we're able to save time and
18 money by helping on the front end to ensure the
19 equipment and systems meet energy efficiency
20 standards in the most cost-effective manner
21 possible, and meeting energy efficiency standards
22 in a cost-effective manner is incredibly
23 important, given the affordability challenges
24 people face today in what is one of the
25 most -- you know, given where interest rates are

1 and costs of construction are, one of the most
2 unaffordable housing markets this country has
3 ever experienced.

4 In fact, what we believe is -- rather
5 than a conflict of interest, we believe that
6 aligning design and inspection aligns the
7 interests in the favor of the homeowner.
8 Aligning inspection and design reduces and
9 isolates risk. It allows one party to make sure
10 the system is working as per the design, as per
11 the design, which means the energy standards,
12 Energy Code, and any above energy programs which
13 are established.

14 It's the interest of the designer to
15 reduce their risk later on by making sure that
16 the system was installed per the design and works
17 as per the design. It also isolates any issues
18 to equipment, which is then easily covered under
19 warranty, which reduces issues for homeowners
20 later on, because any lack of performance is
21 quickly identified, more easily identified, and
22 responsibility is more clearly identified, and
23 thereby dealt with.

24 Our experience in California and other
25 markets is that builder that take this integrated

1 service of design and inspection see less comfort
2 calls, i.e., have happier homeowners. They have
3 less dissatisfied homeowners when the designer
4 inspects the work to make sure it's installed
5 correctly as per design.

6 I think this was addressed already, rater
7 of record, failed inspection, the idea that the
8 same rater be responsible for completion of
9 inspections, including after a failed test. This
10 would restrict our ability to assign workforce
11 and complete inspections in a timely and most
12 cost effective manner.

13 What we would argue is that, within a
14 rating company, there should be the ability to
15 assign amongst raters, but, obviously, not
16 between rating companies, which might indicate
17 some rating shopping, so to speak, on the part of
18 the builder or contractor.

19 If we have to send the same rater out, it
20 also prevents us from looking and being able to
21 address performance or other issues with
22 employees that may be acting poorly. So our
23 perception, you know, is being able to assign
24 raters within a rating company freely is the most
25 efficient matter, gets us the best performance,

1 but we would like to better understand the
2 staff's intent with this recommendation.

3 Another area we'd really like to better
4 understand is the desire for cost data, and what
5 it's intended for, and how it would be used.
6 Providing this data is complex. There are large
7 variances in cost based upon region, complexity
8 of job, new versus existing homes, availability
9 of workforce, to mention just a few variables.

10 We may be in one area where we
11 can -- we're driving an hour and a half, two
12 hours between inspections, and can knock out two
13 a day, maybe three a day. We have other areas
14 where we're able to be in a new construction
15 neighborhood, and you might not have to ever move
16 your car, again, a very different cost
17 perspective as a result.

18 So exactly how data derived from that
19 becomes useful we don't fully understand, so we
20 appreciate the effort of the staff to acknowledge
21 regional differences, but we think the costs and
22 the averages is much more complex, and hence the
23 averages would have limited value.

24 I would also argue that the costs are
25 going to be evolving based upon the final Title

1 24 regulations. It's going to be some time
2 before you have a clear picture of those costs.
3 We do right now it takes around \$12,000 just to
4 bring a rater on board in terms of equipment.
5 Training is an additional cost. As Eric pointed
6 out, a lot of additional training will add
7 additional cost to the program. So we need to
8 understand it.

9 I would lastly say that providing the
10 data could create unintended consequences. For
11 example, if we wanted to provide the proposed
12 verified rater with a higher salary, our
13 public-facing cost might appear higher and
14 discourage consumers from utilizing it, when
15 we've decided to invest in quality and reward
16 folks who have the experience to deliver the best
17 service, or, if one company provides benefits to
18 their employees, then the competitors' costs will
19 be higher, and yet we could be penalized for
20 being good corporate citizens and supporting
21 California workers and their families.

22 I've already addressed the 72-hour limit
23 on certificates. I think, you know, we need to
24 better understand what that's working to get at,
25 and come up with rules that properly address

1 that, and then properly address the needs of the
2 Commission for existing homes versus new homes.

3 The last thing I'd like to specifically
4 address is view-only access to documents.
5 Efficiency is an important aspect of providing
6 quality service at reasonable rates for
7 consumers, and at the end of the day, if this all
8 becomes priced too high, it's going to work
9 against our desire to see more inspections be
10 done, more permits be filed, et cetera.

11 At ARCXIS, we've developed a system that
12 uses lower-cost office resources to do the
13 providership paperwork submitted by the raters so
14 that they can do their work in the field. Raters
15 take more training. They are (indiscernible).
16 They cost more. You want to have them doing the
17 work they're properly trained for, as opposed to
18 in the office doing work that you can use
19 somebody else for. This allows us to keep the
20 costs down.

21 However, if only raters can input data,
22 we worry this limits the ability of the raters to
23 be in the field testing, limits the raw number of
24 inspections statewide. If a rater has to be in
25 the office for an hour or two every day, that's

1 one less inspection that they can get done in
2 that day, and then you're talking about having to
3 hire, you know, 10 to 20 more inspectors in
4 today's challenging labor markets.

5 That will only drive the costs up
6 further, or slow down the ability to get the
7 inspections done, or put us on longer lead time,
8 slow down construction, or things like -- or put
9 us in a challenging position, like Eric said.
10 You know, if you're not in there right after the
11 install, they don't know why you're showing up
12 two months later.

13 What we would suggest is that, you know,
14 based on our understanding of the risks that the
15 CEC looks to manage -- is looking to manage
16 her -- we would suggest something like a file QA
17 process that RESNET uses to make sure that the
18 data being entered in the system is matching the
19 data that is submitted from the field, and there
20 be a strong quality process around that.

21 There are a few other sundry items that
22 we believe should be more fully discussed in this
23 process, definition of key terms, human resource
24 and legal issues associated with proposed
25 disciplinary process.

1 We have had situations in other states
2 where we have had to -- we have been advised by
3 employment lawyers to take extreme caution around
4 how we essentially publicly discipline raters
5 that are not -- you know, by decertifying them,
6 because then that can open up additional -- you
7 know, you can basically be sued for denying
8 somebody the right to work.

9 How disciplinary actions are triggered,
10 how that whole process works, kind of talked
11 about sampling. We do think there are some
12 things to be looked at there as well, definitely
13 believe that we need to look at new versus
14 existing homes differently, and we also would
15 want to discuss the release of personal private
16 information of employees to the public.

17 Our hope is there will be additional
18 workshops to discuss these issues, given the
19 complexity of this work, these comments. You
20 know, it's been a really good discussion today, a
21 lot of good stuff, but I suspect we all feel like
22 we're just scratching the surface, given the
23 complexity of what we are dealing with here.

24 We look forward to continuing these
25 discussions. They've been very fruitful today.

1 We appreciate the opportunity to participate and
2 be able to bring our perspectives based on our
3 experience in California to the table, and look
4 forward to continuing to do so. So I thank you
5 very much for the time today.

6 MS. WHITE: Thank you, Jonathan. There's
7 quite a questions in there, quite a few asks, so
8 I'm not sure we're going to get to all of them
9 today. There's a couple that we'll of course try
10 and touch on, but we definitely will be
11 addressing them in the revised staff report.

12 We do think that the idea of providing
13 better clarity on our intent and where a lot of
14 these recommendations are coming from, and what
15 we essentially need to do now in terms of
16 changing the regulations, versus working out the
17 actual implementation details, which is a
18 separate process that comes after the regulations
19 are in place, is important.

20 Just assure you that dialogue is not
21 going to end with the final staff report. There
22 is a whole other process when it comes to
23 implementation and working out the details, such
24 as the changes on the forms. Those aren't
25 necessarily going to be done in this rulemaking,

1 but will be addressed at a later date, within
2 another process.

3 So I would like to, at this point in
4 time -- since we're nearly at 3:00 o'clock, I
5 would like to invite Eric, if you'd please pull
6 up your presentation again. There were a couple
7 of questions in your presentation that I think we
8 can address pretty quickly, and then I'll touch
9 on a couple of Jonathan's, if that works.

10 Okay. So let's see. The first comment
11 was on the name change, and I know that Joe had
12 responded to one of the reasons why we feel that
13 changing the name is important. As has been
14 mentioned, there are a few whole-house evaluation
15 programs.

16 When this program was initially put in
17 statute, it was actually a home rating and
18 labeling program for new construction and
19 existing buildings. Its purpose was to educate
20 consumers, homeowners, building owners about the
21 performance of their structures, residential and,
22 to some degree, multifamily, but the intent was
23 to rate a home and its performance, hence the
24 home energy rating system name. Today you see
25 RESNET. You also see a program in the Bay Area,

1 Home Energy Service.

2 You also have DOE's programs, Department
3 of Energy's programs, to evaluate the performance
4 of homes. That is very different than a
5 regulatory program designed to determine
6 compliance with regulations. So they are not the
7 same, and making sure that people are really
8 clear on the difference is super important. So
9 that is that response on the name change.

10 MR. BERIAULT: And we don't -- I'll just
11 maybe go into the question we asked --

12 MS. WHITE: Yes, sure.

13 MR. BERIAULT: -- support the name
14 change. So, yes.

15 MS. WHITE: Okay. And then, on the
16 certificate limit proposal, the idea of how we
17 police some of these recommendations does get
18 into the compliance documents. As you know, each
19 code cycle, we develop specific compliance
20 documents, and these documents, they're in the
21 forms, really.

22 Those forms are based off of a very
23 specific schema, pseudo code, rule sets that are
24 all defined, and we can set parameters and
25 validations within that digitized system to allow

1 us to trigger certain requirements and to
2 basically determine if those requirements have
3 been met. If they haven't, those can be alerted
4 to the person trying to process the documents.
5 The registration could possibly fail if they
6 exceed those parameters, and that's one method
7 that this would be policed.

8 The first and foremost way of ensuring
9 that people understand the requirements comes
10 through the training, hence why we want to make
11 sure that, per the providers' requests, we are
12 specifying more about our expectations for what
13 is in and not in training, but that is not the
14 ceiling on the training. It's really just the
15 floor. So the idea is that, you know, we specify
16 the minimum, seek consistency amongst the
17 programs, but then encourage more robust programs
18 as time allows and resources can support.

19 We don't want to, certainly, add more
20 undue transaction costs to any of this program.
21 The goal is to improve the way it operates, build
22 its credibility, and also keep transaction costs
23 down, because, as Jonathan mentioned, and others,
24 the costs associated with this program ultimately
25 are born by the homeowners. So, especially if

1 we're really at a 50 to \$100,000,000 industry in
2 California, that's a lot for the consumers to be
3 paying, and we don't want it go any higher.

4 Okay. So that's the way that we envision
5 policing these things. I really love the idea
6 that you're in agreement with our efforts to try
7 and stop rater shopping, and we really think that
8 this is going to be just the start of a much
9 bigger discussion, especially over how
10 contractors perform.

11 Some of you may not know, but the Energy
12 Commission has already begun discussions with the
13 CSLB on how we address the permit issues. Now,
14 we'll be focusing in more earnest once we are
15 dealing with our own programs, the HERS programs,
16 have been put in place, but this is very much an
17 important topic.

18 There are regulations over contractors.
19 We are just not the enforcement agency. We're an
20 interested agency, because much of what we are
21 able to accomplish in the Energy Code compliance
22 is dependent on their performance, but we have no
23 direct authority over the contractors, so we must
24 work with the CSLB, and we must work with local
25 jurisdictions to enforce what they can as far as

1 permits go.

2 There are some things in the works, as I
3 discussed earlier today, that may give the
4 Commission more authority to provide information
5 to the CSLB and local jurisdictions on the level
6 of unpermitted work in California, especially as
7 it pertains to HVAC changeouts. I'm not going to
8 get into that, because that's still within the
9 legislative process. We don't know if it's going
10 to go forward, but be assured we are working on
11 this topic.

12 MR. BERIAULT: Who identified this as an
13 issue, rater shopping? Because we don't really
14 hear about it at all, because it's really -- it's
15 very -- switching, like, onboarding a contractor
16 or a contractor's switching raters is very
17 cumbersome. So how often does this actually
18 happen?

19 MS. WHITE: So we've heard about it from
20 rater companies. When I came back to the
21 Commission four years ago, it was one of the
22 first topics that was brought to a violator
23 company (sic), and the need to stop this. This
24 is not something that the Energy Commission just
25 decided was an issue. We've had a lot of intel

1 from this.

2 It's difficult the way the forms are set
3 up right now, even with our development of the
4 compliance document repository, to see just how
5 extensive this problem is, but we do know,
6 because so many people have brought it to our
7 attention, that it actually is causing a problem,
8 especially with small business.

9 MR. BERIAULT: Okay.

10 MS. WHITE: The detailed training
11 requirements. We very much appreciate your
12 suggestions here, and your questions are very
13 good ones. We'll have to do more in addressing
14 that within the staff report. Do know that our
15 providers have asked for this support, so we want
16 to make sure that people know what our
17 expectations are for the minimum level of
18 training before you get certified.

19 MR. BERIAULT: Okay. This just a
20 suggestion, recommendation.

21 MS. WHITE: No, I really appreciate the
22 suggestions, and we will take all of those
23 suggestions into consideration, and we will work
24 on the clarifications. Everybody who's been
25 asking for them, we'll do our best to make sure

1 we're really transparent.

2 MR. BERIAULT: All right. I think that's
3 all the questions that I have on the
4 presentation.

5 MS. WHITE: Okay. Thank you so much.

6 Jonathan, let's go back to a couple of
7 your questions. I want to make sure that we get
8 a chance to address them. So, Jonathan, I think
9 one of your questions that I wanted to touch on
10 had to do with the difference between new
11 construction, and the processes there, and
12 existing projects, and we are looking at that
13 topic.

14 It may not necessarily be something we
15 have enough data on from the field, from
16 organizations. It's one of the reasons why we
17 were asking for information to be provided to us
18 on what the processes are. What are some of the
19 issues? How are the two processes, permitting
20 processes, so different that we can't be treating
21 the industry the same, new construction and
22 alterations?

23 So we are very open to your feedback and
24 input on that. I know we've had some discussions
25 with Elizabeth, and they have been very helpful

1 to inform us on just how you guys do business,
2 but there is something I --

3 MR. RISCH: If you have some specific
4 questions, we'd be happy to respond.

5 MS. WHITE: Sure. Okay. That sounds
6 good.

7 MR. RISCH: Obviously, the process for
8 new homes is much more involved with -- you know,
9 starting with energy modeling. The various
10 forms, the CF2Rs, add tremendous complexity
11 because of having to chase down all the
12 subcontractors to verify their work against the
13 energy model, and there's also, obviously,
14 additional inspections, because you're doing both
15 a rough inspection of the insulation and the air
16 ceiling on a new home that you're not doing on an
17 existing home, where they're just coming in.

18 There are a variety of other elements
19 that are different. I would argue that they
20 are -- the only thing they share is, in both
21 cases, you're trying to understand the energy
22 efficiency of the home, but an existing home,
23 it's in a much more limited context, because
24 you're not going to take down drywall and stuff
25 like that.

1 MS. WHITE: Right.

2 MR. RISCH: As a result, the timing, the
3 amount of time it takes, the back-office work,
4 they're all very different. You know, we'd be
5 happy to answer questions. We'd be happy to
6 arrange, you know, opportunities for you to see
7 some of this different stuff and lay out those
8 processes.

9 MS. WHITE: Thank you, Jonathan. When it
10 comes to the CF2Rs, perhaps one of my questions
11 is, is it less efficient to have one person try
12 to do all the trades' CF2Rs, tracking them down,
13 trying to hunt for the contractor that did the
14 work or the installer that did the work, ensure
15 that kind of consistency?

16 Is there a lack of efficiency there,
17 versus requiring those trades, those installers
18 and contractors, to do their own documentation?
19 Because, when the process was originally
20 envisioned, the designer would do the CF1R, or
21 the builder. The installer or contractor would
22 do their own CF2Rs, and then the field
23 verification would be done by the HERS rater, and
24 fill out the CF3Rs. So would you --

25 MR. RISCH: Well, we can't fill out a --

1 MS. WHITE: -- like tracking this down?

2 MR. RISCH: Well, we can't fill out a
3 CF3R until all the CF2Rs are submitted, and
4 there's no incentive structure in place for those
5 folks to submit a CF2R, or certainly no penalty
6 if they don't.

7 MS. WHITE: Okay.

8 MR. RISCH: So what you're left with are
9 open CF3Rs. That leaves us in the awkward
10 position, perhaps, not getting paid for our work,
11 having done it.

12 We would argue that the -- and Elizabeth
13 has unmuted herself, and I'm going to make one
14 last comment and let her jump in, because she is
15 truly the expert on this.

16 MS. WHITE: Excellent.

17 MR. RISCH: We would argue that, in terms
18 of -- that eliminating the CF2R would actually be
19 the way to go. Currently, in some instances,
20 builders will work out with the subcontractors
21 process by which the builder (sic), and then the
22 builder seconds that to the rater to sign off on
23 the CF2Rs, and so, effectively, these pages --
24 but what you're doing is you're really -- it's
25 the inspection to make sure that everything was

1 done as per the energy model, and the house is
2 performing as per code or any above-code
3 programs, is what you're really looking for, and
4 the CF2R doesn't necessarily add to that, and in
5 terms of driving greater quality into the
6 industry, there's other ways to do it outside of
7 the CF2R process.

8 Elizabeth, if you want to jump in, you
9 have a lot of passion on this topic, and, beyond
10 that, actually real knowledge. So I'll defer to
11 you.

12 MS. BLYTHE: Okay. Thank you very much.
13 Can you hear me okay, Lorraine?

14 MS. WHITE: Yes, Elizabeth. Yes. Thank
15 you for joining us today.

16 MS. BLYTHE: Okay. Yes. Great. And
17 this sort of ties back to one of the points you
18 made, in that we don't have any jurisdiction or
19 authority or contractual arrangement with any
20 contractor or subcontractor, with an HVAC guy,
21 when we do a new home, so us calling them is just
22 sort of begging them to do their CF2Rs, and yet
23 we can't fill out a 3R without it. So that's
24 sort of obvious, I think, that problem, you know,
25 that it exists.

1 I do want to say some things real
2 quickly, and that is that -- how much I
3 appreciate that, in this call and in the later
4 documents from the CEC, the division of existing
5 and new homes, because it is quite different.
6 And to even take it further, new home production
7 builders and new home custom builders are also
8 very different.

9 MS. WHITE: Right.

10 MS. BLYTHE: You know what I mean? So
11 it's like -- it's almost like I wish -- and I
12 know it's hard, because it's sort of like you get
13 a whole jumble of regulations that have to be
14 sorted out within one entity, one area, energy
15 efficiency, and really it's subdivided into many
16 things. Anyway, so I do appreciate that quite a
17 bit.

18 The other thing I wanted to say, and it
19 sort of ties into overview, and I know that
20 Shelby touched on this a little bit as well, and
21 that is that I feel that -- personally very proud
22 of what the HERS raters and Energy Code
23 compliance inspectors, whatever you want to call
24 them, have done, you know, for California, for
25 climate control and all that.

1 In just new home, just ARCXIS, we've done
2 over -- we've eliminated, like, total emissions
3 avoided, over 17,600, almost 18,000 emission, of
4 tons per year, you know what I mean, so that we
5 have eliminated through the implementation of
6 Energy Code. And so that's quite -- and that's
7 like taking 4,000 cars off the road every single
8 year in the state of California. You know what I
9 mean? And so I feel proud of what we have done,
10 and I do believe there are holes in it, I'm sure,
11 but, overall, I think we've done an incredible,
12 incredible job on that.

13 So, anyway, back to, quickly, on this
14 other thing of sampling, and, again, I am totally
15 willing to answer any questions on that
16 separately. I know that was mentioned at one
17 point, you know, on new home, on these big
18 communities, production builders, KB, DR Horton,
19 these guys, that we might look at extending
20 sampling to, you know, increasing it so that it's
21 one in 10 or one in whatever.

22 I actually think that if we eliminated
23 the CF2R problem that I mentioned, the reliance
24 on the trade, and that we just did -- you know,
25 and, therefore, took that cost away from the

1 builders -- because the builders are paying that
2 cost for the trades to do that. If we eliminated
3 all that, and went to 100 percent testing, we
4 would not even -- we would not increase the cost,
5 we would improve quality, and it would be a
6 better solution all around. Anyway, just a
7 thought.

8 MS. WHITE: So, Elizabeth, just to make
9 sure I'm really clear, so the suggestion that
10 you're making is that we don't do or allow
11 sampling on new construction?

12 MS. BLYTHE: Correct.

13 MS. WHITE: Okay.

14 MS. BLYTHE: We do 100 percent.

15 MS. WHITE: We do 100 percent, but to
16 offset the cost of doing that, and because of the
17 redundancy that we're seeing between the CF2Rs
18 and the CF3Rs, the CF2Rs add no value, so could
19 be done away with?

20 MS. BLYTHE: It's almost -- yes, that's
21 correct, and I'll say that with a caveat, and my
22 caveat is that the CSLB and the authority having
23 jurisdiction's job is to regulate the
24 contractors, the trades. It is not our job. We
25 don't have the capability of doing so. So,

1 therefore, it allows them -- it tells them, "You
2 do your job. Energy will do their job." And so
3 it sort of like, I think, makes it clearer.

4 MS. WHITE: Well, and would you think
5 that it also reduces some of the liability of the
6 rater community who take on those forms for the
7 contractors?

8 MS. BLYTHE: No, I think they still have
9 to report their diagnostic testing. They have to
10 reports the results they find. So, you know, it
11 doesn't take that off of them. It just places it
12 more correctly where it has already been written
13 into law that that is where it belongs. That's
14 all.

15 MS. WHITE: Okay. No, that's great. I
16 really appreciate that.

17 MS. BLYTHE: Yes.

18 MS. WHITE: The other comment I wanted to
19 respond to, Jonathan, just so you understand, as
20 part of this process, we do need to look at
21 costs, but we don't have access to all of the
22 relevant information on costs within this
23 industry, at least not current data.

24 So, when it comes to how much it costs
25 for you guys to do your training, how much it

1 costs to actually do a rating in new construction
2 versus alterations, finding that information
3 without actually going through that work
4 ourselves is difficult, and so this is also why
5 we suggest that folks that do want to help
6 educate us on the real costs of doing things, or
7 topics that are related to business practice that
8 they want us to become aware of, submit to the
9 Commission, and ask for confidentiality, okay,
10 because anything that's a trade secret we don't
11 want to release.

12 We want to be educated. We want to
13 understand those things so we can do a better job
14 in evaluating our potential impacts of a
15 decision, but we are not necessarily the source
16 of that data or that information. So it's really
17 important as we do this -- and this is where the
18 collaboration comes in.

19 If we're telling you we've been hearing
20 about all these problems -- because, you know,
21 we've gotten -- I mean, CalCERTS was talking
22 about the number of complaints that they've
23 gotten. We have gotten an impressive number of
24 complaints directly to the Commission, and we've
25 had to do the investigations on them, and we try

1 to figure out the solutions, and so a lot of
2 what's happening is not -- it's definitely things
3 that is increasing over time.

4 So we need to address these, but we want
5 to make sure that we are, as Commissioner
6 McAllister said, being effective in our
7 recommendations for solutions, while also
8 ensuring that we're not adding but, hopefully,
9 reducing the transaction costs in the
10 marketplace. So that is one of the reasons.

11 MR. RISCH: That's a very helpful
12 clarification, I think, because we read the staff
13 report, and the discussion of costs came across
14 very differently, that it looked like an ongoing
15 kind of submission of information to the
16 providers. I think being able to -- you know, we
17 are happy -- and you make a very important
18 clarifying comment there about the
19 confidentiality.

20 You know, we would be happy, under those
21 circumstances, to give you a much better
22 perspective on what some of these things cost
23 and, you know, like I said, you know, building up
24 a shared understanding of what this all is. You
25 know, obviously, you know, training is a

1 two-sided coin, as an example. It's not free.

2 MS. WHITE: Right.

3 MR. RISCH: It costs both in, you know,
4 the materials and the time, and bringing in
5 trainers and whatnot, but also in taking your
6 people out of the field.

7 MS. WHITE: Right.

8 MR. RISCH: They like to be paid while
9 they're being trained. Fair enough.

10 MS. WHITE: Yes, exactly.

11 MR. RISCH: But we're not getting paid to
12 train them, though. If that's something the CEC
13 wants to look into, I'd be open to having that
14 discussion, you know, but, on the other hand,
15 training is incredibly important for quality and
16 delivering, you know, a great end product for the
17 homeowners that either are buying these homes or
18 living in these homes.

19 So, you know, we're happy to have those
20 discussions, and, you know, what we don't -- what
21 we want to make sure, thought, is that,
22 obviously, things that are -- you know, our -- I
23 don't want to necessarily call costs "trade
24 secrets," but certainly costs is an important
25 kind of confidential set of information, and

1 whether it be ours or somebody else's, I think
2 that should remain confidential, but certainly,
3 within the context of better informing the
4 Commission, we'd be happy to engage in that
5 discussion.

6 MS. WHITE: And this is also another
7 reason why, you know, we recognize that there are
8 regional differences in costs. We also recognize
9 that there's a tremendous amount of variability
10 in what it takes to do a job within a particular
11 region or a jurisdiction. So we would have to
12 aggregate the information anyway in terms of our
13 ability to ensure that confidentiality is
14 protected, so we can work with you on exactly
15 what level of granularity may be necessary.

16 MR. RISCH: I think also what you're
17 saying is you are trying to understand the costs
18 of specific processes, for lack of a better word,
19 what is training cost, what does it cost to do a
20 rough inspection, what does it cost to do a final
21 inspection, what's the difference between an
22 existing home or a new home, you know, and
23 understanding that so that you can better
24 understand what's the cost of obtaining the
25 homeowner's -- of making an appointment with a

1 homeowner, which I would, by the way, tell you,
2 given how hard it is, if they're not consenting,
3 we're not showing up.

4 MS. WHITE: Right.

5 MR. RISCH: You know, so that, in my
6 mind, is consent, but, you know, what's -- you
7 know, I know exactly how much we pay our call
8 center per hour, and how many calls they make per
9 hour, and how many calls per appointment it takes
10 to get. So, you know, we can share that
11 information with you, you know, on a confidential
12 basis, and then, yes, how you use it and work
13 with it, as long as -- you know, whether you
14 aggregate it -- and that's up to you, as long as
15 the confidentiality is maintained. That would
16 work well.

17 MS. WHITE: Well, we are obligated to
18 maintain that confidentiality, so I have no
19 intention of getting in trouble with messing that
20 up.

21 So it is 3:20, and I'm going to open it
22 up now to the public comment period, and I know
23 several people have been waiting very patiently
24 to ask their questions, and Richard Barlow is
25 perhaps the one who's been waiting the longest.

1 So, Richard, and anyone else who would
2 like to ask questions, and I will be going to the
3 Q-and-A box. So, if you have your questions in
4 the Q-and-A box, don't worry. We'll get to them.

5 If you want to verbally ask your
6 question, please just raise your hand, and that
7 would be basically using the "Raise Hand"
8 function in the Zoom menu bar at the bottom of
9 your Zoom or at the top of your Zoom display.

10 If you're on a phone, it is star, nine to
11 raise your hand, and it is star, six to mute and
12 unmute. When I select you, I'll unmute you, and
13 I'll demonstrate this with Richard right now.
14 I'll ask you to unmute. So, at that point, you
15 need to accept, and then you can ask your
16 question.

17 Richard. You'll need to unmute, Richard.
18 Richard, the unmute is the little microphone down
19 at the bottom.

20 Okay. So maybe he's having some
21 technical difficulties. I'm going to move to
22 Ian, Ian Jacoby with iPermit.

23 MR. JACOBY: Thanks.

24 MS. WHITE: You bet.

25 MR. BARLOW. I'm sorry. Am I up?

1 MS. WHITE: So, Ian, could you do me a
2 favor and just hold off? Thank you so much.

3 Yes, Richard, you're up.

4 MR. BARLOW: All right. Thank you for
5 having us. Thanks for, you know, trying to make
6 things happen and these improvements. I think
7 they are good improvements. I think the biggest
8 issue we're having as raters is the layers.

9 We're often the first layer for problem
10 solving, but, in reality, we think, once somebody
11 pulls a permit, if there's a permitted project,
12 the cities need to -- you know, when they give
13 you that permit and a stamped set of plans, that
14 they need to have a little, you know, document,
15 and have the client sign, to inform these people
16 that there's HERS features that need to be
17 reviewed.

18 We go to a lot of jobs and they're like,
19 "What is this QII?" "Well, your walls are
20 covered up. You know, we're going to have to do
21 infrared. We're going to have to charge you more
22 money." "Why doesn't my range comply?" "Well,
23 it's got to be in the HV -- it's got to be
24 limited to two directories." They don't know
25 nothing about that.

1 We've been going to city inspection
2 offices, building permit offices, for the past
3 eight, nine years, and none of the cities, with
4 the exception of one or two -- and I think we've
5 went to 21, my business partner Raymond and
6 I -- and they can care less. So, you know,
7 that's half the battle right there.

8 The second thing I wanted to point out
9 is, where is the compliance with energy modeling?
10 You know, with the new codes that have been
11 coming into effect -- and there's going to be
12 more changes throughout the next five, six
13 years -- we have energy modelers that are very
14 talented, very good, very bright.

15 They've been, you know, taking all the
16 courses and dealing with the new changes in, you
17 know, the software, and we go to some projects
18 and they're just templates of energy models, and
19 we'll go to a 350-square-foot house, and they're
20 calling out the whole house (indiscernible).

21 We go to projects that, you know, have to
22 be (indiscernible), and they're calling it out
23 for R60. You know, this is another issue which
24 the raters that were able to speak today -- you
25 know, they were all great, and I think we need to

1 be heard a little more, because it is frustrating
2 for people when they get to the end of the road.

3 The last thing I wanted to comment about
4 is, you know, that some of the CF2R compliance,
5 when the multifamily (indiscernible) station
6 requirement was mandatory for live balance
7 systems, well, we do multifamily with 115, 40, 50
8 units, and nobody knows nothing about the CF2R
9 MEG 24s (phonetic), which is, you know, they have
10 to do a compartmentalization test. I have yet to
11 come across a rater or a contractor, and, in most
12 cases, an HVAC installer, that has any equipment,
13 and they have no clue.

14 So I think, you know, that's where a lot
15 of the issues with, quote/unquote, "bad raters"
16 come into play, one, because they may not be
17 educated, and they're just trying to get a check,
18 but, second of all, they get put in these
19 positions where it's too late to do any
20 corrections.

21 Nobody is going to spend hundreds of
22 thousands of dollars, or 15, \$20,000, on upgrades
23 and improvements, and then they have to open up
24 walls and change equipment and things of that
25 nature.

1 So I think it starts from the beginning
2 with, you know, the cities notifying these people
3 that they have to have these energy features
4 inspected, or consult with a rater. We spend
5 most of our time consulting with our clients
6 after the fact, which is -- we don't charge for
7 that. It's just to try to keep them out of, you
8 know, a bad predicament, and that's a lot of
9 labor on the raters' side as well.

10 So I just wanted to make that point, but
11 I am pleased in, you know, this whole Title 24.
12 I think it's making a difference. It has to us
13 as a company. We hire youth and people in
14 disadvantaged areas. We train them. We pay for
15 all their training, and we also take advantage of
16 the utility free trainings and things of that
17 nature, and we're teaching these people. We
18 bring our, you know, raters in and say, "This is
19 not a job. We're training you for careers."

20 So we do appreciate that, and we hope
21 this continues, and I'd also like to thank
22 CalcERTS and CHEERS. You know, they're great
23 providers, and I'm looking forward to seeing what
24 the new provider is going to bring to the table
25 as well. So I'd like to thank everybody.

1 One more thing, real quick. I do want to
2 say, with these code changes, I think, when we do
3 have issues -- like, we had a situation where a
4 multifamily had, you know, the Mitsubishi
5 multicity condensers. Well, the charger, they
6 put in, you know, 90 pounds of refrigerant in,
7 and, you know, we had to wait two, three days
8 just for the Commission to say -- because you can
9 only put 25 in the registry. You know, I think
10 they need to more interactive, and a little more
11 responsive on things that, you know, weren't
12 looked at before the codes came out.

13 So, other than that, we're happy. We're
14 excited about the changes. I think it will be
15 better for everyone, and thank you, everyone, as
16 well. I appreciate it.

17 MS. WHITE: Thank you very much, Richard,
18 and thank you for your patience. I'm sorry you
19 had to wait until the very end of the day to make
20 your comments, but we are very happy you did, and
21 truly appreciate your input.

22 So, now, Ian, please go ahead and unmute
23 yourself.

24 MR. JACOBY: Thank you, Lorraine.

25 MS. WHITE: You're welcome.

1 MR. JACOBY: Yes. I just wanted to bring
2 up two points. One, I wanted to ask the CEC
3 about PSRs, the project status reports, if that's
4 going to be something that's going to be brought
5 into the code when it's approved, to the building
6 of AHJs, to accept that, instead of the 30-,
7 40-page full reports.

8 We find that a one-page summary of the
9 PSR saves less (sic) paper than printing the 30
10 pages of the full certificate that the building
11 officials barely look at anyway. So that was one
12 of my questions, and then the other -- well, I'll
13 leave it at that.

14 And then I want to thank Jonathan. He
15 did a great job over there at ARCXIS. So good
16 job, Jonathan.

17 MS. WHITE: So, Ian, thank you for your
18 comment on the PSR. We'll take it under
19 consideration. That's actually -- it's been
20 talked about a little bit, but not within the
21 context of this proceeding yet. So, you know, if
22 you could -- and this goes for everybody.

23 If you have comments or ideas or
24 suggestions or alternatives you want us to look
25 into, please make sure that you submit those

1 ideas also to the docket. If you can get them in
2 writing, and maybe expand upon your thoughts,
3 that's super helpful for us, and really would
4 encourage that, to the extent that you have the
5 time to do so. Okay?

6 MR. JACOBY: Thank you.

7 MS. WHITE: Is there anything else there,
8 Ian?

9 MR. JACOBY: No. You guys did an amazing
10 job today for this workshop. Thank you so much,
11 and a lot of the points have been taken. So,
12 thank you.

13 MS. WHITE: Thank you so much, Ian.

14 All right. So I do then want to go ahead
15 and get into some of the Q and A. We have Kevin,
16 Kevin Rivas, if you're still on the line. I'm
17 going to look for you on the list. You are here,
18 and I'm going to ask you to talk, and see if --
19 let's see. Kevin, where did you go? You're
20 right there.

21 I'm going to ask you to unmute, and in
22 order to do so, if you'd just go ahead and unmute
23 yourself, Kevin. You had a couple of questions
24 in the Q and A, and I was going to let you ask
25 them directly.

1 MR. RIVAS: (No response.)

2 MS. WHITE: Okay. So I'm not sure you're
3 able to do that, so I'm going to go ahead and
4 read them off.

5 So Kevin Rivas' question is "What's the
6 process and qualifications of hiring a
7 third-party company to perform a QA rate for the
8 provider? Are they qualified? Also, can that
9 company or rater they have hired -- are they
10 allowed to still perform their own ratings, even
11 though they were hired to perform the QA ratings?
12 Would that be considered a conflict of interest?"

13 I'm going to ask my colleague here, Joe,
14 to also chime in, but, as we see it, if you're
15 being hired to do quality assurance on a job, you
16 can't do the quality assurance on yourself. That
17 definitely -- you can't do the job and then turn
18 around and do your own QA. You should already be
19 doing that, but the purpose of the QA, quality
20 assurance, is that a third party takes a look at
21 that, someone who didn't do the work.

22 Joe, did you have anything you wanted to
23 add?

24 MR. LOYER: Yes. I think it's a really
25 good question. This has actually come up a

1 couple times, Kevin. So the quality assurance is
2 the job of the providers, to do a QA check on the
3 raters, if that's indeed what you're talking
4 about here.

5 So, when they perform that QA check, no
6 matter what that QA check is, one of the things
7 we don't want them to do is to actually use a
8 rater or a rater company that is current and
9 active in the field performing their own ratings
10 and B and DT (phonetic) checks, because that is a
11 conflict of interest.

12 Obviously, if they're in any kind of
13 competition with the rater that they're QA-ing,
14 they may not -- they may do an honest job, but
15 the implication is that, if they fail, that the
16 rater -- they're doing it to eliminate
17 competition, which, you know, is something that
18 is difficult to work around.

19 So we prefer that the providers not hire
20 raters or rater companies that are active in the
21 field to actually do their QA, that they do their
22 QA with their own internal people.

23 Now, if you're speaking in terms of, is
24 the rater a third party -- and this goes to some
25 other things that were said here as well -- they

1 have to be an independent third party from the
2 contractor, and, of course, they're also -- most
3 people don't know this -- they're also an
4 independent third party, independent of the
5 provider as well. Raters are independent of the
6 provider. So are rater companies. They are also
7 going to be independent of the provider.

8 So these are important concepts to kind
9 of understand, and it's sort of this undercurrent
10 of how things are arranged and how people -- what
11 their individual roles are, and how they can have
12 security, both working with each other and
13 working around each other. So I kind of hope
14 that that answers your question on this one.

15 MS. WHITE: Thank you, Joe.

16 Moving on to our next question, and Avery
17 Colter, if you're interested in discussing this
18 one with us, I'd be happy to allow you to do so.
19 Your question was "How many failed verifications
20 have involved cases in which the installer just
21 basically told the rater, 'You do it, and call us
22 if there's a fail'?"

23 Now, that's not a question that the
24 Energy Commission can answer, because we're not
25 in the field, and we can't get that from the

1 forms data. So, if there are people in the
2 discussion here who want to help us out -- and,
3 Avery, I saw your hand there for a second, so I'm
4 going to allow you to talk, ask you to unmute,
5 and please go for it.

6 MR. COLTER: Well, my second question was
7 more immediately in what was just being
8 discussed, which is, well, you're wanting to
9 define a status of verified rater, which is based
10 on how much activity somebody has been --
11 somebody suggested that should be party based on
12 how active a rater has been, and then you're
13 saying you want somebody who is doing the QA to
14 be a rater who hasn't been that active. So that
15 would mean that a QA rater would, by definition,
16 then be not a verified rater, because they
17 haven't been that active?

18 MR. LOYER: I can see where you've kind
19 of gone off, how the ship has kind of gone off
20 the channel here. So, yes, a verified rater.
21 Verified raters -- so some people suggested, you
22 know, various things, but what we're proposing
23 right now is that a verified rater is somebody, a
24 rater, an active rater, that has done at least
25 one year of QA, and one year of the proposed QA.

1 So they've done a shadow audit. They've
2 done a shadow audit for QII. Those are two
3 different things. They've had a desk audit, and
4 they've had a lab audit. So these audits are
5 completed, and they passed. That's the first
6 thing.

7 The second thing is, is that they have to
8 have at least five years of experience. Now, the
9 suggestion is that -- or was that, you know, just
10 being a rater for five years, holding the
11 certificate for five years, does not, in and of
12 itself, say that you have experience, and that's
13 true.

14 If you were to just hang on to that
15 certificate for five years and not do any
16 ratings, you have virtually zero experience, but
17 one must draw the line someplace. The
18 line -- getting the verification, those are the
19 minimum requirements that we put there.

20 The other requirement is that you be
21 recommended by the provider, so the provider is
22 recommending you to be a verified rater, and
23 they're going to make you that verified rater.
24 So they're going to tell us that you're that
25 verified rater, and that comes from them. So

1 they're the ultimate check on whether that
2 verification -- you, as a rater, should be a
3 verified rater.

4 Now, as far as the QA is concerned, we do
5 not recommend that the providers use active
6 raters as their QA people. We advise that they
7 have their own people in-house, or they can
8 contract out to have other people, if that's what
9 they want to do, provide that QA, but those
10 people should not be raters. They should be
11 trained to do the QA. They should probably have
12 some rater experience.

13 We recommend that the people that are
14 training the raters at the provider be the QA
15 people, so the teachers who teach the course go
16 out and actually do the QA. We think that's the
17 best use of their time.

18 And, Avery, you can just unmute, and you
19 can just back-and-forth with me if you like.

20 So I think that's where a little bit of
21 the confusion is kind of coming up. You know,
22 there is this distinct line between what is the
23 provider and what is the rater, and rater
24 company, for that matter. So that's a very
25 important line to recommend.

1 Yes, go ahead.

2 MR. COLTER: Yes, it sounds good. Just
3 wanted some clarification with that. Thank you.

4 MR. LOYER: Absolutely.

5 And I'm not sure what happened to
6 Lorraine.

7 MS. WHITE: I'm right here. I'm right
8 here.

9 MR. LOYER: Okay. You were behind
10 my -- I had a window open.

11 MS. WHITE: Yes.

12 MR. LOYER: You're behind my window.

13 MS. WHITE: Yes. Sorry.

14 Thank you, Avery.

15 I see Logan or Michael wanted to go to --

16 MR. STRAIT: It's me. It's Logan.

17 MS. WHITE: It's Logan. All right.

18 Logan.

19 MR. STRAIT: I think I missed part of the
20 question about -- sorry -- about situations
21 arising from a HERS rater shows up, contractor
22 says, "Just call me if anything is wrong and
23 needs to be fixed." Could you repeat the
24 question?

25 MS. WHITE: So the question was -- let's

1 see. I'm trying to find it now.

2 MS. BLYTHE: It's the first one in the --

3 MS. WHITE: Yes. So, yes. Avery, so you
4 specifically were asking how many failed
5 verifications have involved cases in which the
6 installer just basically told the rater, "Do it,
7 and call us if there's a fail."

8 MR. STRAIT: Right. And when you say
9 "failed verifications," that's a situation where,
10 you know, the system is not passing, and no one
11 is willing or able or answering to go fix it,
12 basically?

13 MS. WHITE: So, Avery, would you like to
14 get involved in this --

15 MR. STRAIT: Is that right?

16 MS. WHITE: -- since it is your question?

17 MR. COLTER: Well, they might be willing
18 to come back, but, I mean, I think maybe this
19 isn't an issue anymore, but I think, in the past
20 iterations, there were cases where it was
21 basically, "Well, you know, just do the ratings,
22 and, you know, the contractor already -- the
23 contractor put it in. They'll defer to your
24 ratings as to whether it's compliant or not," and
25 basically just kind of defrauding the CF2s.

1 MR. STRAIT: Yes. I mean, that will
2 happen. I mean, frankly, the contractor might or
3 might not own a duct blaster, and probably calls
4 us because we're the ones who do have a duct
5 blaster, and so, you know, that kind of just gets
6 rolled into one thing.

7 MR. COLTER: I don't, either. I've
8 borrowed from the PG and E tool library.

9 MR. STRAIT: That's a great idea. What I
10 mean to say is, to answer your question directly,
11 I can definitely say there have been situations
12 where I'm testing a system. The contractor says,
13 you know, "Hey. You know, I need to be across
14 town, or I'm out of town, but, you know, here's
15 the code to get in. You know, call me if
16 anything comes up."

17 There have been situations where the
18 system is not passing for one reason or another,
19 and they basically start dodging phone calls, and
20 either the project gets waylaid for a little
21 while, or eventually sometimes they'll fix it, or
22 come back and retest it, but, on at least a
23 handful of occasions, they've kind of dropped off
24 the radar, and presumably gone rater shopping for
25 someone who might or might not actually be

1 testing that system.

2 MS. WHITE: Thank you.

3 MR. STRAIT: So it does happen, but I
4 couldn't say with any frequency what the stats
5 are like.

6 MR. LOYER: I would like to clear up one
7 other thing about the rater shopping requirement,
8 especially when we're talking about raters within
9 the same shop or raters within the same rater
10 company. In my presentation, I used as sort of
11 shorthand to -- maybe I shouldn't have.

12 That rater shopping ROR designation is
13 actually extended to the rater company. So it
14 depends on if the rater is an independent rater,
15 or if it is a rater company. So it is extended
16 to the rater company. They can reassign a new
17 rater within their own company to go and retest
18 and clear up that failed test.

19 MS. WHITE: Thanks for that
20 clarification, Joe.

21 Kevin. Kevin, thank you for raising your
22 hand. I'm asking you to unmute right now. So,
23 if you would just unmute yourself, and go ahead
24 and ask your questions.

25 MR. RIVAS: Yes. Sorry.

1 MS. WHITE: Sure.

2 MR. RIVAS: I kind of missed -- I
3 called -- I mean, sorry. I just got into it. So
4 I missed (indiscernible). I was a little busy,
5 but, towards my question about the conflict of
6 interest -- hello?

7 MS. WHITE: Hello.

8 MR. RIVAS: Okay. So I kind of missed my
9 question there, my answer to my question earlier,
10 about the conflict of interest about having
11 providers have active raters to go perform QAs.
12 I didn't hear what the --

13 MR. LOYER: So, if I could answer that
14 one for you, Kevin?

15 MS. WHITE: Yes.

16 MR. LOYER: So, basically, the Energy
17 Commission does not encourage providers to use
18 active raters to go out and do QAs on other
19 raters, or rater companies. So that's not
20 something that we encourage them to do.

21 The providers are to use their own
22 internal processes and people. They can have a
23 contract with a company of some kind go out and,
24 you know, get the -- you know, provide them with
25 the training necessary to go out and do the QAs

1 for them, but they cannot use active raters and
2 rater companies to go out and do QA on other
3 rater and rater companies. There's just too much
4 conflict of interest in that situation.

5 MS. WHITE: And, actually, this is the
6 current regulations.

7 MR. LOYER: This is the current
8 regulation.

9 MS. WHITE: This is not a new regulation.

10 MR. LOYER: Yes.

11 MS. WHITE: Yes. This is the current
12 requirements, and we're not changing those. Yes.

13 MR. RIVAS: Okay. I just want to make
14 sure that's where it still stands, as I read,
15 with the absolute conflict of interest.

16 Then, also, being that the rater is
17 active, is he allowed to also do the HERS
18 training for up-and-coming raters?

19 MR. LOYER: So, if they -- yes. So the
20 answer to -- the simple answer to that is no. So
21 you, as a rater, cannot train and approve other
22 raters. Only the providers can do that. You can
23 provide additional training once you, as a rater
24 company or as, you know, a small company, or a
25 large company, for that matter, hire on new

1 raters.

2 You can decide, "Well, you know, it's
3 great that you got that certificate and you are a
4 rater. However, our policy is we like to have a
5 little bit more training for you. We want you to
6 ride along with these other guys," or "We want
7 you to take this PG and E training," or "We have
8 this in-house training that we provide for you."
9 So you can do that, but you cannot train and
10 certify new raters as a rater. That can only be
11 done by the providers.

12 MR. RIVAS: Okay. Because that would
13 create conflict of interest, right, in the case
14 that, if you have a company, and then you kind
15 of -- and you're working in the same area, you
16 could kind of dictate who could be a rater and
17 who can't, correct, if you do certain things like
18 that?

19 MR. LOYER: It's not so much a conflict
20 of interest. It's a violation of state law.

21 MR. RIVAS: Okay.

22 MR. LOYER: So you are not a provider.
23 As a rater, you are not a provider, and the only
24 way you can be a provider is by submitting a
25 provider application to the Energy Commission,

1 but, you know, that's -- provider application to
2 the Energy Commission is really, really easy.
3 I'm not sure why everybody doesn't do it, and
4 just become their own provider. Right, Shelby?
5 It's simple.

6 MR. RIVAS: Really? I didn't know we had
7 a chance.

8 MS. WHITE: So, Kevin, I think one of the
9 things that we really want to stress here is that
10 a rater cannot train and certify other raters,
11 right?

12 MR. RIVAS: Got it.

13 MS. WHITE: You can train your own staff,
14 but only a provider can certify, and that is very
15 explicit in the existing code. We're not
16 changing that, either. A provider will still
17 have the obligation to do the minimum training in
18 order to certify a level of competency of the
19 raters that go through their program. Okay?

20 That role is not going to change, but, as
21 you've heard from others on the call today who
22 have their own companies, they have additional
23 training that they for the raters that work for
24 them, and staff that work for them. I mean, if
25 you've got support staff, they're going to need

1 training. If you've got them helping the raters
2 in the field, they'll need training.

3 We're not affecting any of that. In
4 fact, the more of that that occurs, the better
5 the program overall performs, right, because what
6 we specify in the regulations is the minimum
7 requirement to be certified, and what we're
8 hoping is that, through the robust work of all of
9 the parties, with all of our rules, the Energy
10 Commission, the providers, the raters, the rater
11 companies, that the program and the industry
12 really excels and thrives, and gets the necessary
13 credibility to assure consumers they're getting
14 what they're paying for when it comes to energy
15 efficiency.

16 Did we answer your question, Kevin?

17 MR. RIVAS: Okay. And the last question
18 is --

19 MS. WHITE: Okay.

20 MR. RIVAS: Just one more. The other one
21 would be, now, if they do hire a third party to
22 do the QAs, should they have any form of training
23 to do the HERS rating --

24 MR. LOYER: Absolutely, but that's
25 through --

1 MR. RIVAS: (Indiscernible.)

2 MS. WHITE: Yes.

3 MR. LOYER: Yes, absolutely, Kevin. They
4 will have some form of training in order to
5 provide the QA, but that's up to the providers to
6 do. The QA is their responsibility, and training
7 their personnel to actually perform it is their
8 responsibility as well. So that's something that
9 they will take care of.

10 MR. RIVAS: Awesome. Thank you. That
11 should be it. Great.

12 MR. LOYER: Thanks, Kevin.

13 MS. WHITE: Did we have anyone else --

14 MR. RIVAS: Thank you.

15 MS. WHITE: -- with any additional
16 questions? I think we're actually doing very
17 well with our timing here.

18 Russ. Hi, Russ. I see you. Let me
19 allow you to talk and ask you to unmute. Russ,
20 there you go.

21 MR. KING: Can you hear me okay?

22 MS. WHITE: Yes.

23 MR. KING: Awesome. So, earlier, when
24 Alfredo was talking, he made a great point about
25 one of the biggest problems that we run into is

1 when a rater goes out to a house and it fails,
2 and everyone is surprised, and, like, "My gosh."
3 Now the rater becomes the bad guy.

4 Then he mentioned an earlier -- doing the
5 duct test earlier, and what I thought he meant
6 was making sure that the installer tested their
7 own work, and if that's not what he meant, I want
8 to bring that up, because that solves so many
9 problems, and if we require that the installer
10 test their own work so that, when the rater comes
11 out and tests it, there is no -- there should be
12 no reason for it to fail, right?

13 If it fails, somebody did their test
14 wrong, but, if it passes every time, then you
15 don't have the problem of the rater having to
16 wait around while they seal it, and then it
17 becomes a slippery slope where the rater starts
18 helping them seal it, you know, all this other
19 stuff. So is that a possibility? Could we
20 require that the installers test their own work
21 with a duct test? And I'm specifically talking
22 about alterations.

23 MR. LOYER: Yes. Actually, Russ, I'm
24 kind of surprised you don't know this already,
25 but let me just say that that actually is the

1 ideal, and that's the way the code is put
2 together now.

3 So the intent is, especially when we're
4 talking about existing buildings -- the intent is
5 that the contractor that did the work -- and, for
6 all intents and purposes, I think we're really
7 mostly talking about HVAC changeouts, just to,
8 you know, put a very specific job on the line
9 here.

10 So, in those situations, we're almost
11 always assuming that the contractor actually does
12 their own tests. Unfortunately, what is the
13 reality, most contractors -- actually, very few
14 contractors own the equipment or use the
15 equipment, or have the knowledge of how to do
16 these tests, and so they do not test their own
17 work prior to the rater getting out there.

18 But Alfredo, what he was suggesting was
19 that, prior to the work really getting started at
20 all, maybe, you know, in terms of after the
21 permit is pulled, or maybe even before the permit
22 is pulled, what would be a really good idea for
23 the homeowner or the project proponent is to go
24 out and do a -- you know, test the equipment, and
25 do, more or less, a rater inspection, what is

1 essentially a whole-house inspection, to verify
2 what's going on with the house right now, to do,
3 essentially, an asset test, to test the house as
4 it stands now, and recommend projects that would
5 be cost-effective and effective at reducing
6 energy consumption from the very beginning.
7 That's ideal.

8 But yes, to have the contractor actually
9 perform the rater tests before the rater gets
10 there, and verify that what they're doing is
11 correct, and that the tests should go through the
12 rater's inspection the first try, yes, that's
13 what was presumed in the very beginning.
14 Unfortunately, what happens is, most of the time,
15 the contractor doesn't do that, and, hopefully,
16 what they -- one of the outs that they're allowed
17 at this point is they're allowed to tell the
18 rater, essentially, "You can sign for me." So
19 they can allow the rater to sign the CF2R for
20 them. They have to submit that paperwork through
21 the provider to do that, but they are allowed, in
22 fact, to sign on the CF2R if that paperwork is in
23 place. Otherwise, the only thing that the rater
24 can do is they can complete and sign as the
25 document author on the CF2R. So I'm not sure if

1 that helped you out there, Russ, or not, but a
2 little back-and-forth, we'd probably get there.

3 MR. KING: Yes. No, it's actually not
4 required at the -- it's not required that the
5 installer test their own work, because I know for
6 a fact that contractors -- everyone acknowledges
7 that a lot of contractors don't own the test
8 equipment, and if you look on a lot of CF3Rs,
9 compare them to the numbers on the CF2R, they're
10 the exact same number. So, clearly --

11 MR. LOYER: The exact same number.

12 MS. WHITE: Yes.

13 MR. KING: And the only time a contractor
14 is actually required to do their own test is for
15 sampling, and then the rater comes back and
16 retests that one house. So what I'm proposing is
17 that we enforce that the contractor test their
18 own work, they have to have a duct tester, they
19 have to do their own test.

20 The rater is coming out there and
21 retesting the house, and it should pass every
22 single time. It should be already sealed. It
23 should be ready to go. The homeowner -- or the
24 rater tests it, approves it, and walks away, and
25 we don't have all these other problems that we

1 talked about earlier.

2 MR. LOYER: Yes, I would agree with that,
3 to a large extent, but I think that's -- you
4 know, finding a way to enforce that is the
5 difficulty.

6 When it comes down to it, the Energy
7 Commission doesn't have direct authority over the
8 contractors to do that, and, you know, when it
9 comes down to it, as far as CSLB is concerned,
10 who do have authority over the contractors, this
11 is not something that they would probably find
12 easy to enforce.

13 So, if we can find a way to encourage
14 that sort of behavior, I think that we'll have
15 better traction, but yes, I think that's
16 something that we can take into consideration,
17 Russ, and just see if we can't figure out a way
18 to make this a better, smoother transition.

19 There are some other issues that are
20 outside of this rulemaking, outside of any
21 rulemaking right now being considered, that I
22 think we could consider. Maybe there is
23 something, recognition of a better contractor,
24 that can be made available to -- you know, for
25 contractors who go and get this training, get

1 this equipment, and be that better contractor.

2 MS. WHITE: So, Joe, let me just go ahead
3 and interrupt you there, because I am cognizant
4 of time, and we do have a couple of people who
5 still have their hands up.

6 So, Eric, I know you've had your hand up
7 for a while, and I'm not sure who is "One Plus
8 Nord and 25G," but I will get to you next.

9 Eric, please. You can unmute and speak.

10 MR. BERIAULT: I think it's actually
11 Stephanie.

12 MS. WHITE: Stephanie, please.

13 MR. BERIAULT: (Indiscernible.)

14 MS. WHITE: Yes. I'm sorry, Stephanie.
15 I see now that I have two "Eric Beriaults" on my
16 screen.

17 MS. SMITH: I must have joined under
18 Eric's invite, then.

19 MS. WHITE: Stephanie, please.

20 MS. SMITH: Outside of this rulemaking,
21 but I just wanted to spark a little bit of
22 healthy debate here. I heard Russ' comment, and
23 I think what's really exciting is a future where
24 whole-home is present, and there are -- there is
25 a test-in and a test-out, and some really solid

1 recommendations for the protection of the
2 consumer, the education of the contractor.

3 I think that's a really exciting future
4 for the workforce advancement in this field, to
5 do some more advance testing and have more pride
6 in their work. So I really like that direction.

7 If we're talking, though, present-day
8 enforcement of contractor behavior, I think
9 that's in -- it's counterproductive to compliance
10 to regulate contractors further in this
11 environment now. At scale, when you're doing
12 that many installs a month, to expect them to
13 take on the burden of additional equipment, and
14 then for us to enforce that, I think, would
15 discourage more compliance.

16 What I do think is an approach that would
17 be productive for right now is a collaborative
18 and educational approach with the contractors
19 where you're right, they should not be failing by
20 the time that we get there, because they should
21 be aware of -- with the collaboration of the HERS
22 rater, they should be aware of the quality, the
23 improvement.

24 The contractors that we choose to align
25 ourselves with are really, really open to,

1 receptive of, our feedback when it comes to their
2 failures, where there's consistent feedback for
3 duct testing results, any field where their pass
4 rate is going down. They seem to welcome us with
5 open arms. They want their quality to go up.
6 They want their Google reviews to go up, so that
7 their revenues go up, and when you fail duct
8 tests, that just doesn't happen, and consumers do
9 get a little paranoid when a HERS is at their
10 house multiple times.

11 So really a collaborative approach, where
12 we're partnering with the consumer, with the
13 contractor, and with the CEC and the providers,
14 and I think, if we're all rowing the same
15 direction, the consumer feels that, and so does
16 the install crew. We incentivize the installers
17 to improve on their quality.

18 Like Eric mentioned in the earlier part
19 of the meeting, we do attend all their installer
20 meetings. We have a lot of fun with it. We do
21 show photos of their failures and photos of the
22 best installs we saw that month. It gets a
23 little competitive for them, but I think, in
24 order to avoid enforcing anything on the
25 contractors, which we really can't do

1 anyway -- it's pretty cumbersome to do something
2 like that -- we should take a much more
3 collaborative approach, and provide more
4 education and encouragement to our contractors.

5 MS. WHITE: Thank you for that,
6 Stephanie.

7 All right. Now we get to One Plus Nord
8 and 20. Let me go ahead and make sure I -- let's
9 see. Where did you go? There you are. Okay.
10 So did you wish to speak, One Plus? You keep
11 bouncing around, for some reason, on my computer.
12 Where did you go? There you are. Okay.

13 MR. MORTON: Okay. Am I coming in? This
14 is Luke Morton.

15 MS. WHITE: Yes, yes.

16 MR. MORTON: Sorry about that.

17 MS. WHITE: You're coming in great.

18 MR. MORTON: I couldn't change my Zoom
19 name.

20 So the question I want to get feedback on
21 is, I'm really bouncing off of Russ' suggestion
22 there of getting, you know, installers to test
23 their work. The reality is -- so I'm speaking as
24 a respective -- ancient history. I used to work
25 in RESNET as a HERS rater, and my job essentially

1 was, you know, to go around the greater Atlanta
2 area, and that's exactly what I did, but I tested
3 early and often.

4 That was my job, and I learned to test
5 early and often because I hated with a passion
6 getting to a final inspection and failing a job,
7 because there was no fail. I had to sit out
8 there and help the builder get to yes, and it was
9 painful for everyone to do that.

10 The question I would have is, I know --
11 and some of this was, did I entirely have to do
12 that? Maybe, maybe not, but that's what I did,
13 because I wanted to get those houses compliant,
14 because this is a voluntary program in the South.

15 Now, the question I would have, moving
16 forward, in practicality -- and I'm speaking as
17 someone that worked for a general contractor who
18 had his own blower door and duct blaster test --
19 because of my unique -- or not unique, but rare
20 experience -- I was the person testing the work.

21 I was testing the installer's work when I
22 worked for that builder. I don't know of any
23 other builder or installer that I worked with
24 that had their own equipment. For the most part,
25 they're like, "Well, if we want to hire the

1 equipment, to get the equipment, let's hire a
2 HERS rater to do it." And so are we working
3 ourselves back into the same kind of approach?

4 The question I would have -- and maybe
5 you guys might know the answer -- would there be
6 a conflict of interest to have -- to hire a HERS
7 rater for the installation verification, but not,
8 you know -- essentially, currently, it's to fill
9 out the CF2R, you're just -- you need to get a
10 duct blaster. You don't want to afford (sic) to
11 pay one for yourself, so you hire someone who has
12 the training and knowledge and the equipment to
13 do it.

14 Are we just coming back around to the
15 same -- visiting the same place of where the
16 industry currently is, and would there be a
17 conflict, inherent conflict of interest, of
18 getting that HERS rater involved to work on
19 behalf of the installer to do that verification?

20 MR. LOYER: Yes. So there is -- the
21 conflict of interest, the bright line, you know,
22 a third-party independent, is real between the
23 rater and the contractor. So there are
24 situations that it's very beneficial to sort of
25 blur that line, as we've actually discussed in

1 these three workshops that we've been doing on
2 this.

3 Educating contractors is a great use of
4 the raters' time and the contractors' time on how
5 to comply with the Energy Code. It's a fabulous
6 use of it, and we absolutely encourage that. You
7 know, when it comes down to a project specific,
8 though, there is a bright line between the rater
9 and the contractor.

10 Now, that said, one of the things that we
11 saw was a real positive, was very close to what
12 you're proposing. The rater in question wanted
13 to know if it was permissible for him to -- it
14 was "he" -- him to train a contractor on how to
15 do the duct testing and the blower door testing
16 for an installation using his own equipment, you
17 know.

18 So he would borrow the rater's equipment,
19 and set it up and use it, and check his own work,
20 and the rater obviously charged him for use of
21 the equipment, but he didn't charge him for the
22 training, quote/unquote, "training," that he got.
23 So, as far as that's concerned, it's perfectly
24 acceptable to do. The rater is not crossing the
25 line at that point.

1 In fact, the contractor is allowed to
2 rely solely upon the raters' tests, if they want,
3 but that's something they have to arrange through
4 the provider, so the provider has to have that
5 signature authority on their list, on their
6 system, to allow the contractor to officially
7 simply rely on the rater's results, and not
8 do -- essentially, that's what -- you know, where
9 you see the results of the CF2R matching the
10 CF3R. A lot of times, that's what's happening.
11 They are signing over that authority.

12 So, yes, we can do some back-and-forth,
13 if you would like, and if I could, real quick,
14 could you say your name, slowly and clearly, for
15 our Elise here, real quick?

16 MR. MORTON: Yes. Luke Morton, as in
17 Luke Skywalker, Morton as in, you know, the
18 steakhouse or whatever it is.

19 MS. WHITE: Or the salt.

20 MR. MORTON: Or the salt, yes.

21 MS. WHITE: And the salt.

22 MR. MORTON: I'd like to be -- I'd like
23 to claim that I'm worth my weight in salt, but I
24 can't quite claim that. That's not for me to
25 say.

1 A quick follow-up, maybe a quick
2 question, where I see kind of -- would it be
3 ethical for me, as a HERS rater, if I were in
4 that position, and I'm doing a, you know,
5 pre-installation, pre-drywall, and I've just done
6 a rough-install verification, which I always
7 encourage my project to do -- if I found a leaky
8 system, would it be unethical for me, or in
9 violation of conflict of interest, to help the
10 installer find and seal that leakage?

11 MR. LOYER: Yes, it would be. It would
12 be a violation. You're not allowed to do work on
13 the project as the HERS rater. You're allowed to
14 identify problems, but you're not allowed to do
15 work to resolve them.

16 MR. MORTON: Right. And while I find
17 that reasonable, I think that's also quite
18 fraught (sic).

19 MR. LOYER: Yes. It's definitely a
20 difficulty. I can say, with other programs that
21 we have at the Energy Commission, if I may point
22 it out, the ATTCP program, there is no third
23 party. It is a self-check program. The training
24 is pretty intensive, and the quality assurance is
25 also intensive, although we are having

1 difficulties there as well.

2 So, when it comes down to it, theirs is a
3 little bit more relaxed in that way, so the
4 person actually doing the work does the test.
5 They're required to do the test, and when the
6 test fails, when it does fail, they are the ones
7 that fix it.

8 In HERS, that more often doesn't work out
9 well. There's too much collusion going on.
10 There's too many times -- it's too easy for the
11 contractor to say, "I know I do good work. I
12 don't need to worry about that, so I can just
13 sign this paperwork off and not do the test."
14 So, in a nutshell, that's why we don't allow it,
15 and that's why we are going to retain the
16 third-party independent.

17 MS. WHITE: Okay. So I do not see any
18 additional raised hands. I have gone through the
19 Q-and-A, and we have exhausted all of the
20 questions asked thus far, and I want to now turn
21 to just a summary of the next steps that we'll be
22 going through, and this is to make sure that
23 people -- now, this discussion, this dialogue,
24 has not concluded. There is a lot more that we
25 will be doing.

1 So, the comment period for the revised
2 staff report. We ask that comments be submitted
3 to the rulemaking docket, pre-rulemaking docket,
4 in this case, by the 23rd of June, and the hope
5 is, you know, if you guys need additional time,
6 you know, we'll accommodate it to the best of our
7 ability.

8 However, in order to move this discussion
9 into the formal rulemaking for the 2025 cycle,
10 our documentation needs to be done by the end of
11 July, and provided to the program manager who's
12 heading up that 2025 building Energy Code
13 proceeding.

14 Now, within that, we will be having some
15 workshop discussions. That will happen March --
16 or, pardon me, April -- August, September --
17 sorry about that, you guys -- August, September
18 time frame, maybe into as late as October, and
19 those workshops will allow us to continue this
20 discussion. You'll be able to, you know, ask
21 more questions, provide more input.

22 And then the formal rulemaking for the
23 next Energy Code cycle, the 2025 cycle, starts in
24 January, and, as you can tell, we started this
25 process in October. It's going to go well into

1 2024, and so it's a very deliberate process that
2 we are engaged here, and lots of opportunities
3 and touches on these proposals.

4 So we appreciate -- we are grateful for
5 all of the input you've given us to date. We
6 look forward to more. There's been great
7 discussion today on all sorts of ongoing
8 activities that we could consider for the
9 implementation portion.

10 So keep in mind, the regulations do not
11 get into all of the levels of detail that we have
12 been talking about today. That gets into some of
13 the implementation mechanisms, and those will be
14 appropriately discussed in some of these other,
15 perhaps, working groups or committees or things
16 that folks have suggested.

17 We will also take into consideration some
18 of the recommendations on how we collaborate to
19 ensure better participation, especially by the
20 local jurisdictions and by the contractors,
21 collaborating with the raters and the CEC earlier
22 in the process.

23 So, again, thank you very much for all of
24 your comments, all of your input, and we look
25 very much forward to the written comments that

1 will be coming in over the next few weeks.

2 With that -- Karen, I see that you have
3 your hand raised. Let me make sure I can get you
4 unmuted, here. All right.

5 MS. ZAMARRIPA: Thank you. I just --
6 sorry to interrupt you. I just wanted to make
7 sure -- I'm trying to copy down the application
8 for confidential submission, so can I get these
9 slides from the CEC website after this closes?

10 MS. WHITE: They're already posted, so,
11 yes.

12 MS. ZAMARRIPA: Great. Thank you.

13 MS. WHITE: Yes. You can get all of this
14 information, with all of the links.

15 MS. ZAMARRIPA: Got it.

16 MS. WHITE: So, as you can see, the text
17 is highlighted. That is a link put in that
18 document that will take you right to where you
19 need to go.

20 MS. ZAMARRIPA: Thank you so much.

21 MS. WHITE: You're welcome, and thank you
22 for the question, because I know that there are
23 other people on the call that are interested in
24 that information as well.

25 MS. ZAMARRIPA: Appreciate it.

1 MS. WHITE: Yes. So thank you again very
2 much for all of your participation. I hope you
3 all have a fabulous weekend, and glad you don't
4 mind that we're letting you out a little early in
5 terms of the overall workshop today.

6 With that, we'll conclude, unless there's
7 any last-minute stuff, and I am not seeing any.

8 So, all right. Joe, you can stop sharing
9 your screen, and we will conclude this workshop,
10 and thank you all for your participation. Truly
11 appreciate it. Goodbye, now.

12 MS. ZAMARRIPA: Goodbye.

13 (The workshop was adjourned at 4:15 p.m.)

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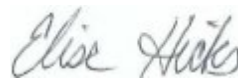
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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of August, 2023.



ELISE HICKS, IAPRT

CERT**2176

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I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

August 9, 2023