



WHPA Compliance Committee Teleconference Summary Notes

Monday, October 23, 2017

Scheduled for 9:00am – 1:00am PDT

Call to Order

WHPA Compliance Committee Chair Bob Barks (CALBO) called the meeting to order at 9:05 a.m. PDT. The meeting was recorded for note purposes.

Roll Call

WHPA Staff (Wendy Worrell) conducted roll call of the voting panel during the meeting. There was a quorum (9 or more voting members or proxies) with 10 voting members (or proxies), and the following 21 participants (or proxies) overall based on attendance reporting documentation.

Organization	First Name	Last Name	WHPA Category	Attendance
Voting Members				
ACCA (Air Conditioning Contractors of America)	Todd	Washam	Contractor Association	A
	Don (standing proxy)	Prather	Contractor Association	P
Brody Pennell Heating, Air Conditioning and Electrical Contractors	Michael	Carson	Contractor (Residential)	P
CALBO (California Building Officials)	Bob	Barks (Chair)	Codes & Standards Official (Association or Jurisdiction)	P (Chair)
CalCERTS, Inc.	Charlie	Bachand	Certifying Body	A
	Russ (standing proxy)	King	Certifying Body	P
CEC (California Energy Commission)	Lea	Haro	Government (Other than CPUC)	P
CHEERS	Bob	Johnson	Certifying Body	A
	Mike (standing proxy)	Hodgson	Certifying Body	A
CSE (Center for Sustainable Energy)	Lindsey	Hawes	Energy Efficiency Program Consultant	A
Enalays	Eric	Taylor	Third Party Quality Assurance Providers	P
Energy CA LLC, The	Eric	Beriault	Third Party Quality Assurance Providers	P
Goodman Manufacturing	Aniruddh	Roy	HVAC Manufacturer	P (30 min - then proxy to HARDI)
HARDI (Heating, Airconditioning & Refrigeration Distributors International)	Jon	Melchi	Distributor Association	P – Proxy for Goodman
HVACRedu.net	Scott	Oakley	Educator, Trainer	A
IHACI (Institute of Heating and Air Conditioning Industries)	Bob	Wiseman	Contractor Association	P
JCEEP (Joint Committee on Energy and Environmental Policy)	David	Dias	Organized Labor	A
SynergyNexGen	Barbara	Hernesman	Energy Efficiency Program Consultant	A
Non-Voting Members				
BPI (Building Performance Institute, Inc.)	Jeremy	O'Brien	Certifying Body	P
Duct Testers	Dave	Hegarty	Other Stakeholder	P
EnerGtech Experts	Brent	Locke	Energy Efficiency Program Consultant	P
Goodman Manufacturing	Jennifer	Andjelich	HVAC Manufacturer	P
HVAC Excellence	Eugene	Silberstein	Certifying Body	P
SCE (Southern California Edison)	Gary	Shushnar	California IOU	P
SMUD (Sacramento Municipal Utility District)	Brett	Korven	Public Owned Utility	P
Guests				
Enalays	Mike	Thompson	Third Party Quality Assurance Providers	P
Energy Cloud	John	Carrieri	Energy Efficiency Organization	P
WHPA Staff				
CLEAResult	Paul+	Kyllo	Other Stakeholder	P (Work Product)
InfoPlast	Wendy	Worrell	Other Stakeholder	P (Host/Scribe)

** Organization is Not a Member of the WHPA; + Individual is NOT Registered with the WHPA; (P) = Member Organization is Pending Approval from the WHPA Executive Committee.

WHPA Staff Note: 43 minutes into the meeting, Aniruddh Roy announced that he needed to leave the meeting and passed Goodman Manufacturing's proxy to Jon Melchi with HARDI.

AGENDA

The following agenda was distributed to the WHPA Compliance Committee roster by WHPA Staff prior to the meeting:



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GENERAL REMINDERS

- Adherence to the WHPA **Code of Conduct** is required.
- Disclose any potential conflicts of interest as it relates to meeting content, particularly prior to any votes that may occur.
- Identify yourself prior to speaking, clarifying the organization on whose behalf you are speaking, or if you are making a personal comment.
- Mute yourself when not speaking. (*6 will take you on and off mute.)

AGENDA ITEMS

- 1) **Roll Call of Voting Members** – WHPA Staff (Wendy Worrell) – 5 min
- 2) **“Understanding the Residential HVAC Compliance Shortfall” DRAFT White Paper Finalization** – Chair (Bob Barks, CALBO) – 50 min
 - a) Final Review
 - b) Escalation Vote
- 3) **Next Steps** – Chair (Bob Barks, CALBO) - 5 min
- 4) **Adjournment** by 10:00am PDT – Chair (Bob Barks, CALBO)

Approval of Prior Meeting Minutes

To enable more time for White Paper Draft vetting and finalization, no agenda time was devoted to prior minutes approval.

ACTION: WHPA Staff to complete an email vote to approve all October 2017 meeting minutes prior to October 31, 2017.

“Understanding the Residential HVAC Compliance Shortfall” DRAFT White Paper Vetting

The “Compliance White Paper Draft dated 10-20-17” reference document was emailed to the roster prior to the meeting.

The Chair facilitated final reference document vetting discussion while WHPA Staff (Paul Kylo) made live edits.

FINAL REVIEW DISCUSSION

Following Aniruddh Roy’s (Goodman Manufacturing) expressed concern about not rushing to send a draft document with comments attached to it to the WHPA Executive Committee because of the loss of WHPA Staff support on October 31, 2017, WHPA Staff (Wendy Worrell) clarified that this third October meeting was added to finalize the document for voting. All side comments and redlines will be cleaned in the version the Compliance Committee approves for escalation to the Executive Committee.

Gap 3, Page 8, Bullet 3 Starting “Building Departments are…” Discussion

The Chair requested that language be changed from “legally blocked” to “legally limited”.

DECISION: There was general agreement to change Gap 3, Bullet 3, on Page 8 to clarify “...legally limited...” instead of “...legally blocked...”.

Gap 3, Page 9, Bullet 4 “Rethinking the Compliance Process” Discussion

The Chair brought attention to Lea Haro’s (CEC) side note comment: *“Current HERS regulations state that HERS field verification and diagnostic testing must be performed by an independent third party. If technology emerges that could conduct these verifications in an accurate and reliable way, then that may be worthwhile exploring.”*

- The Chair noted that the suggestion indicates that there may be reliable technologies in the future that would help the HERS process by potentially making it simpler and possibly reducing the cost. He asked for any additional comments or suggestions.
- Bob Wiseman (IHACI) commented that it makes sense to have that “forward thinking” in the document.
- The Chair asked if the last sentence in the “Rethinking the Compliance Process” section is explanatory enough.
 - Bob Wiseman (IHACI) confirmed that he was “okay with it”.
- Eric Taylor (Enalasy) commented that he liked the live added language of, “An accurate and reliable technology that overcomes concerns about impartiality would be required for this to be a viable solution, but it is an option that is worth exploring.”

DECISION: There was general agreement to accept the live edits to Gap 3, Page 9, Bullet 4 clarifying that “An accurate and reliable technology that overcomes concerns about impartiality would be required for this to be a viable solution, but it is an option that is worth exploring.”



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Gap 3, Page 9, Bullet 5 “Initiating a Collaborative Data Exchange Between Stakeholders” Discussion

The Chair brought attention to the paragraph content, *“The CFIR captures a lot of project data, but this is only available for projects that have been issued a permit. Building departments simply cannot enforce code requirements equitably unless they know where unpermitted work is occurring.”*

- The Chair clarified that the White Paper cannot reflect serial number tracking (SNT) in any way and that concern had been presented about the existing language suggesting SNT.
- Aniruddh Roy (Goodman Manufacturing) confirmed concern that there are comments about SNT in the document and reported that Goodman Manufacturing cannot vote to approve the document if the comment is still in place.
- The Chair confirmed that the White Paper is not recommending SNT. He suggested modifying the section with language clarifying that “we leverage currently available and future data sources to identify unpermitted work”. He clarified that the concept goes along with the first sentence about using “big data” or “data mining” to find and try to use data sources that would allow finding of unpermitted work that could be presented to jurisdictions, but with the goal of maintaining privacy and confidentiality.
 - Aniruddh Roy (Goodman Manufacturing) confirmed that he is “okay with that language”.
- WHPA Staff (Paul Kylo) reported the live edits he made to reflect the Chair’s comments: “There is a need to explore currently available and future data sources that become available to be used by jurisdictions to identify unpermitted work.”
 - Lea Haro (CEC) voiced agreement that the added sentence captured the concept appropriately.

DECISION: There was general agreement to accept the live edits to Gap 3, Page 9, Bullet 5 clarifying the need to explore currently available and future data sources that become available for jurisdictional use to identify unpermitted work.

Gap 3, Page 10, Bullet 7 “Evaluating Whether Real Estate Transactions are an Appropriate Way to Catch Unpermitted Work” Discussion

The Chair brought attention to Lea Haro’s (CEC) side note comment: *“Are these questions that the compliance committee still needs to explore? Other countries have this in place, that is the owner is responsible to bring a property up to code if work has been done without a permit. It does hold up real estate transactions.”*

- The Chair suggested that the questions need to be addressed with further study and would require legislation and funding to enforce. He asked for other thoughts or suggestions to address the side note comment.
- Lea Haro (CEC) commented that it may be worthwhile stating in the document that these are the unknowns and that “it requires more”.
- Don Prather (ACCA) asked if homeowners can pull permits for their own work. He raised concern about industry related technology that can be purchased online.
- The Chair clarified that homeowners can pull permits for their own work but with limitations as there are also certifications (EPA, etcetera) needed to do some work.
- Bob Wiseman (IHACI) noted that homeowners can and do install equipment themselves. He commented that EPA certification is another situation of well-meaning law that is not being enforced.
- Eric Beriault (Energy) stated that he liked Lea Haro’s restatement of acknowledging the areas as statements and suggested that it be included in the White Paper that way.
- Don Prather (ACCA) suggested that it was okay to leave the existing content in question form as it is.
- WHPA Staff (Paul Kylo) suggested that more specifics in terms of regulatory action, etcetera may be needed.
- Eric Taylor (Enalasy) suggested that making the language more specific would yield a conversation there is not time to have.

DECISION: There was general agreement to keep Gap 3, Page 10, Bullet 7 for “evaluating whether real estate transactions are an appropriate way to catch unpermitted work” as is.

Gap 3, Page 10, Bullet 8 “Considering an Incentive Program to Encourage Permitted Work” Discussion

For the line starting with, “Perhaps a new approach should be considered to jumpstart...”, the Chair brought attention to Lea Haro’s (CEC) side note comments: “Perhaps an incentive program in conjunction with a program to bring old work into compliance. Does anyone know the results of the CSLB’s 2014 Ambassador program pilot in Santa Clara County?”

- The Chair suggested providing some sort of unpermitted work amnesty for homeowners to bring the work forward. He indicated that there is a need for a funding mechanism to help people bring work up to code. This might be loans, grants, etcetera.



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- Donald Prather (ACCA) agreed with the Chair's suggestion, but noted that it should also apply to people who were compliant prior to code changes.
- The Chair asked if this is for the use of code that the equipment was developed under or on the code at the time it was discovered. He reported that, at this point, it is usually a jurisdictional decision. He asked for suggestions for how to better address that, but no further comment was made.

ACTION: WHPA Staff to incorporate meeting discussion about Gap 3, Page 10, Bullet 8 related to “considering an incentive program to encourage permitted work” into the White Paper.

Gap 4, Page 10 “Low Stakeholder Value Proposition” Discussion

The Chair clarified that per the side notes, there was question of the validity of the language under Gap 4. He noted that the comments lay out the issues related to the section. The Chair confirmed that he sees value in the section and recommended keeping it in the document.

- Eric Taylor (Enalasy) voiced agreement that there is enough value to keep the section.
- No other comments were made.

DECISION: There was general agreement to keep Gap 4 in the White Paper.

Gap 5, Page 12, Paragraph 2 “C-20 Licensed Contractor Count” Discussion

DECISION: As footnote 32 provides source citation for the statement about “... roughly 7,471 licensed C-20 contractors actively working in the residential HVAC market in California”, there was general agreement that Dave Dias' (JCEEP) side note comment was appropriately addressed.

Gap 5, Page 13, Bullet 1 “Big Box Stores Selling HVAC Installation Services and Permits” Discussion

The Chair brought attention to Lea Haro's (CEC) side note asking if there are successful pilots that can be referenced for the bullet about “Big Box” stores being forced to require subcontractors to pull a permit for every project.

- The Chair commented that he was unaware of any existing pilots. He suggested adding recommendation for a pilot program based on discussion from the past couple of meetings.
- Don Prather (ACCA) was unaware of there being a problem at “Big Box” stores. He reported that from what he has seen, they are hiring licensed contractors and giving them an additional set of requirements beyond pulling the permit.
- Eric Taylor (Enalasy) noted that when this was brought up, it was in terms of education for homeowners and involved some degree of marketing.
 - The Chair agreed with that summary.
- Dave Hegarty (Duct Testers) reported that the statistics for Home Depot alone show that “Big Box” stores do not enforce the permit issue.
- The Chair suggested that jurisdictions work with the “Big Box” stores for education, but also with assigned contractors to help them get more attune to the permitting system.
- Eric Taylor (Enalasy) suggested also adding distributor marketing to clarify permit law.
 - The Chair noted that it would be smart to include distributors in a pilot program.
 - Jon Melchi (HARDI) noted that he did not necessarily disagree with the suggestion to include distributors, but clarified that consumers go into “Big Box” stores, while distributors do not. Distributors would be a different segment and would need to be a different program.
- Don Prather (ACCA) suggested changing language from “forced” to “encouraged”. He also suggested making a sign that say, “Permits pulled on all our jobs” for consumer education.
- The Chair clarified that the intent is not to “force” anyone to do anything. The point is that there is a lot of misunderstanding so educational programs are needed at the point of purchase. He agreed that the suggested sign would be useful.
- WHPA Staff (Paul Kylo) reported that he made a live edit to change language from “forced” to “encouraged” under the first bullet on page 13. He confirmed that two bullets would be added to clarify more about education and marketing, plus pilots for jurisdictions working with local “Big Box” stores to better enforce permitting
- Don Prather (ACCA) suggested changing the first section to clarify that “all associated contractors advertise that they pull permits” to add an additional stick.
- Dave Hegarty (Duct Testers) reminded that the homeowner and the contractors are required to do it, but that “Big Box” stores are not licensed so they are not required to do it.



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- The Chair agreed but suggested that while “perhaps we can’t answer that question at this time”, language be included to denote that someone needs to work with stores where customers are and that the CSLB and jurisdictions working with the contractors who are working with the stores are the answer for a collaborative, communicative effort.
- Eric Taylor (Enalasy) agreed that “Big Box” stores, such as Home Depot, Lowe’s, and Costco, are where the greatest number of consumers congregate and that having a kiosk for education where HVAC products are sold is a good solution.
- Dave Hegarty (Duct Testers) pointed out that the square footage of profit in the kiosk areas are the most highly profitable “thing to have” so there is leverage with them.

ACTION: WHPA Staff to incorporate meeting discussion about Gap 5, Page 13, Bullet 1 related to “Big Box stores selling HVAC installation services and permits” into the White Paper.

Gap 5, Page 13, Bullet 7 “Carrots and Sticks” Discussion

The Chair brought attention to Roy Eads’ (Benningfield Group) side note comment: *“A stakeholder should not require incentive to follow the law. Weighing the risk of non-compliance is the motivation. The penalty should outweigh any potential gain from non-compliance.”*

- The Chair summarized that the gist of the side note comment is that there is no significant penalty to act as a “stick” to make people get permits. He suggested stating it more clearly to denote the need to increase fines, or pay bounties for people to turn in those not getting permits, as well as provide some liability limits for those who do get permits. Emphasis should be made clarifying that permits do limit liability in some ways. He also suggested low or no interest home improvement loans as a means to incentivize getting permits.
- Eric Taylor (Enalasy) suggested making it easy for contractors to be self-policing by turning in those in violation via a simple application on permitting that goes to the CSLB complaint form. He also indicated “the 1% Utilities get needs to go to the right market”. He suggested that distributor incentives should instead go to the HERS Rater, the HVAC contractor, and potentially the homeowner.
 - Jon Melchi (HARDI) disagreed that distributors are not an effective use of rebate dollars and reported that they have research to support that they are an effective driver for efficiency.
- Eric Taylor (Enalasy) suggested adding language about establishing pilots to explore the opportunity of using the Utility Public Benefit Tax Funds to incentivize the players working in the HVAC area, including HERS Raters, the HVAC contractors, the homeowners, and the building departments.
 - John Carrieri (Energy Cloud) voiced support for that idea.
- Jon Melchi (HARDI) commented that he does not have issue exploring funds for other parties, but confirmed that he is not comfortable with language specifically stating who is worthy for incentive dollars. He is okay with encouraging pilots, but does not want notation of specific parties. “It is not up to us to determine who dollars should or should not go to.”
 - Eric Taylor (Enalasy) agreed with Jon Melchi’s suggestion for modified language.
- Don Prather (ACCA) noted a contractor “carrot” being more affordable permit insurance and suggested that perhaps someone at the state level could “come up with that”.
- The Chair noted that a permit is pulled to have someone inspect and ensure it is done to code, and suggested that the value in doing that needs to be recognized, including that it perhaps limits some of the negative (litigious) issues that can arise.

ACTION: WHPA Staff to incorporate meeting discussion about Gap 5, Page 13, Bullet 7 related to “Carrots and Sticks” into the White Paper.

The Chair confirmed that all the noted comments were reviewed. He asked for any other comments, but none were made.

VOTE

The Chair asked for preference on voting today with the pending edits or on voting by email.

- Jon Melchi (HARDI) noted preference for an email vote after reading the final version.
- Eric Taylor (Enalasy) commented that since all the comments had been reviewed, the vote should occur during the meeting.
- WHPA Staff (Wendy Worrell) clarified that whatever vote decision there is, the final version reflective of all edits will be distributed to the roster for reference prior to escalation to the Executive Committee.

MOTION: Eric Taylor (Enalasy) motioned and Donald Prather (ACCA) seconded the motion to escalate the White Paper with the discussed edits to the WHPA Executive Committee.



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DECISION: The motion to escalate the White Paper with discussed edits to the WHPA Executive Committee carried with a unanimous “aye” decision with no further discussion. Jon Melchi abstained for HARDI and Goodman Manufacturing.

ACTION: WHPA Staff to distribute the Final White Paper reflective of the meeting discussion to the roster as soon as possible following the meeting.

ACTION: The Chair encouraged those who abstained to review the final document and clarify by Noon on Monday, October 30, 2017 if they have any changes to their vote. (*WHPA Staff Note: The deadline was extended from October 27, 2017 per Staff discretion to enable more review time.*)

Meeting Next Steps

The Chair thanked all for their hard work this month in in the past few years. He reported that communication will follow on the future of the Western HVAC Performance Alliance (WHPA) and the Compliance Committee once more information is known.

Closing Comments/Adjournment

The Chair adjourned the meeting at 10:06a.m. PDT.

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Summary of Action Items and Key Decisions (from above)

ACTION ITEMS

1. **ACTION:** WHPA Staff to complete an email vote to approve all October 2017 meeting minutes prior to October 31, 2017. (DONE)
2. **ACTION:** WHPA Staff to incorporate meeting discussion about Gap 3, Page 10, Bullet 8 related to “considering an incentive program to encourage permitted work” into the White Paper.
3. **ACTION:** WHPA Staff to incorporate meeting discussion about Gap 5, Page 13, Bullet 1 related to “Big Box stores selling HVAC installation services and permits” into the White Paper. (DONE)
4. **ACTION:** WHPA Staff to incorporate meeting discussion about Gap 5, Page 13, Bullet 7 related to “Carrots and Sticks” into the White Paper.
5. **ACTION:** WHPA Staff to distribute the Final White Paper reflective of the meeting discussion to the roster as soon as possible following the meeting.
6. **ACTION:** The Chair encouraged those who abstained to review the final document and clarify by Noon on Monday, October 30, 2017 if they have any changes to their vote. (*WHPA Staff Note: The deadline was extended from October 27, 2017 per Staff discretion to enable more review time.*)

DECISIONS

1. **DECISION:** There was general agreement to change Gap 3, Bullet 3, on Page 8 to clarify “...legally limited...” instead of “...legally blocked...”.
2. **DECISION:** There was general agreement to accept the live edits to Gap 3, Page 9, Bullet 4 clarifying that “An accurate and reliable technology that overcomes concerns about impartiality would be required for this to be a viable solution, but it is an option that is worth exploring.”
3. **DECISION:** There was general agreement to accept the live edits to Gap 3, Page 9, Bullet 5 clarifying the need to explore currently available and future data sources that become available for jurisdictional use to identify unpermitted work.
4. **DECISION:** There was general agreement to keep Gap 3, Page 10, Bullet 7 for “evaluating whether real estate transactions are an appropriate way to catch unpermitted work” as is.
5. **DECISION:** There was general agreement to keep Gap 4 in the White Paper.
6. **DECISION:** As footnote 32 provides source citation for the statement about “... roughly 7,471 licensed C-20 contractors actively working in the residential HVAC market in California”, there was general agreement that Dave Dias’ (JCEEP) side note comment was appropriately addressed.
7. **DECISION:** The motion to escalate the White Paper with discussed edits to the WHPA Executive Committee carried with a unanimous “aye” decision with no further discussion. Jon Melchi abstained for HARDI and Goodman Manufacturing.