

FLORIDA BOARD OF PROFESSIONAL ENGINEERS

GENERAL BUSINESS MEETING

EXCERPT ON COMMISSIONING

June 16, 2010

1:30 p.m.

Two Tampa City Center

Hyatt Regency

Tampa, Florida

Reported By:

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## A P P E A R A N C E S

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## BOARD MEMBERS:

John C. Burke, PE, Chairman

Jonathan Earle, PhD, PE

Warren G. Hahn, PE

R. Scott Batterson, PE

Bijay K. Panigrahi, PhD, PE

Christian S. Bauer, PhD, PE

Nila Garcia, Public Member

Mary M. Young, Public Member

David O. Charland, PE

## ALSO PRESENT:

Rebecca Sammons, Executive Assistant

Carrie Flynn, FBPE Executive Director

Zana Raybon, Assistant Executive Director

John J. Rimes, III, Prosecuting Attorney

Michael Flury, Board Counsel

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CHAIRMAN BURKE: Let's go ahead and do our 1:30 time certain, and before we get into having speakers and people, hear their concern, I'd like to address the board regarding this issue and -- so it'll be more meaningful, the input we get from our audience today. If I'm -- you guys on the board that are in the design business and the commissioning business, I don't mean to bore you, but I think there are a lot of people on our board that don't do this stuff every day, and I just want us to have a better understanding of what we're facing here with.

First of all, in the design business, design engineers prepare a contract, set a contract, design documents, usually in the form of a set of plans, a book of specifications. Sometimes they're smaller jobs, and all the specs may be on the drawings, and they put it out for bid. They have competitive bids. Usually, the lowest responsible bid gets the contract, and a job goes under construction.

Engineers play a lot of different roles during construction. Maybe none, but if they're smart, they'll have some involvement during the construction period. Others may have just what we call contract administration. Contract administration consists of

1 duties. Like, a contractor has a question. They call  
2 an RFI. That's a request for information. Then they  
3 prepare change orders, if there are any changes to the  
4 contract.

5 They review shop drawings. What shop drawings are  
6 is certain products that are specified to go in the  
7 job, and the engineer wants to get cut sheets and data  
8 from the manufacturer, review it, make sure it's in  
9 accordance with what he specified and if his client is  
10 getting what they bought. Okay? And then they go to  
11 meetings with the contractor.

12 They may or may not have, like, day-to-day  
13 inspections. Owners sometimes don't want to pay for it  
14 and say, Look, we'll do it with our own forces. You  
15 just do the contract administration, and like I said  
16 earlier, they may not want any of your involvement  
17 during the construction.

18 So that's the -- and some engineers have, like I  
19 said, a full-time inspector watching everything he can  
20 while he's on site during the construction period. So  
21 that -- that is the -- what I would call the  
22 conventional sequence of events in construction  
23 services, and they vary all over the place.

24 From a liability standpoint of view, it's very  
25 astute of the engineer to get as much involvement

1           during construction as he possibly can.

2           Now that's not what we're going to be talking  
3           about today, and a lot of it gets mixed up and gets  
4           confused. What we're going to be talking about in the  
5           terms that's been applied to it is commissioning. A  
6           lot of times in many cases -- commissioning came about  
7           because the federal government started requiring  
8           commissioning of jobs and commissioning services. You  
9           got into the LEEDs and leadership, what is it,  
10          efficient energy design, the green issues and the  
11          efficiencies, and it also would get points on the LEED  
12          system for having a commission report at one time. I  
13          don't know if that's the still the case or not.

14          But -- and then owners. You came in their  
15          contract to put all this stuff together, and the  
16          engineer was there and then walks off the site, and the  
17          stuff doesn't work. You know, they got pieces from,  
18          you know, manufacturer of a control panel, process  
19          equipment here, controls. Duct work's all in, pipes  
20          are all in, but guess what? It doesn't operate, and  
21          they're left with a mess, and it doesn't operate the  
22          way it's suppose to.

23          So owners started requiring commissioning to  
24          ensure that they got what they paid for and that it  
25          operates the way it was supposed to, and that's going

1 to be some -- this is what you're going to be hearing  
2 about.

3 Now what I think we're going to hear today -- and  
4 I may be wrong -- there's going to be a group that  
5 says, you know, We're in the commissioning business.  
6 Anybody doing commissioning should be a licensed  
7 engineer no matter what. There will be others that  
8 say, Wait a minute. We've done this. This doesn't  
9 take an engineer. You know, we've got -- we just don't  
10 need it. We've got people that do this stuff, and this  
11 is the issue.

12 Today we're going to be asked probably to consider  
13 some rulemaking to tie these things down one way or  
14 another but both positions, but I want to remind you --  
15 I hope all of you have read the materials in your  
16 packet. I want to remind you that the Florida board  
17 is -- is a member of NCES and -- and the reason I'm  
18 bringing this up is because it's in reference to what  
19 other states do. I think South Carolina, North  
20 Carolina and some others.

21 NCES is, of course, the -- the examining body for  
22 licensure, and they prepare the exams for the FE and  
23 the PE exams, but also, they look into all kinds of  
24 stuff. This board's been very active in NCES, both at  
25 the staff level and the engineering board level, and

1 NCES is made up of boards like this from all over the  
2 country and from every state.

3 This board hires NCES to administer and proctor  
4 our exams, but we work on committees. We work on --  
5 members of this board have worked on committees  
6 regarding unlicensed practice, LEEDs. Certification is  
7 something that's being looked at a whole lot at the  
8 national level of what they do. A lot of people trying  
9 to practice engineering with a LEED certification.

10 I'd like to remind you that you can -- don't even  
11 have to be a high school graduate. You can be a  
12 secretary, and you can become LEED certified if you  
13 pass the test. I'm not putting it down, but it's --  
14 LEED certification has nothing to do with allowing you  
15 to practice in this state. Okay?

16 So in addition to NCES -- and I've been involved  
17 with NCES for seven years. I will tell you this. So  
18 much of the Florida laws and rules, 471 and 61G-15,  
19 pieces of it -- now I'm in meetings and looking at  
20 rulemaking for bottle rules and other states looking  
21 for advice. The Florida rules -- especially, in two  
22 areas that we're going to be talking about here today,  
23 and this is what I want you to look at. There's two  
24 sections you need to observe, and I want to give the  
25 background of how the board has approached a lot

1           regarding what is engineering and not engineering.

2           If you look at 471, look at your definitions of  
3           what engineering is, and you need to read through it.  
4           It's all encompassing. Then you get into the one area  
5           that Florida has done very well and is used as the gold  
6           standard at NCES. You look at that page and a half,  
7           almost two pages on what responsible charge means.  
8           Very detailed, and a lot of it -- most of this was  
9           written -- it's been modified since I've been on this  
10          board, but those that came before all of us took charge  
11          of that and did very well, you know, addressing the  
12          statute and the rules.

13          So that's the question. As you listen today,  
14          we're going to hear a number of people talk about this,  
15          but I want you to understand that's how the -- this --  
16          this is what is going to be talked about. It's going  
17          to bed when all this equipment is turned on that the  
18          engineer designed, whether it's water or whether it's  
19          air or if it flows right, the pressure's right, there's  
20          a bolt that's dropped at the end of this long feeder  
21          that's loader acceptable, is it the right value? Are  
22          you reaching efficiencies? Are the lighting controls  
23          working that you're suppose to get all this efficiency  
24          out of in a big building? Do they work right?

25          I can go on and on. And then the question is does



1           the guy that measures the voltage at the end of that  
2           wire have to be an engineer? No. Absolutely not.  
3           Does the guy that measures the CFM coming out of an air  
4           vent air conditioning system have to be a licensed  
5           engineer? No.

6           However, as soon as you get into those duties part  
7           of commissioning, it's engineering by our definitions.  
8           You darn well better be licensed. If they work for a  
9           firm, they better have a certificate of authorization,  
10          and I'm not trying to sway any of you in one direction  
11          or another, but that's -- that's what we're dealing  
12          with today, and that's what you're going to be hearing,  
13          and hopefully, we can end this thing today and go on  
14          with other things. But that's where we're at, and I  
15          just wanted to -- hope I've tried to give a big picture  
16          of what we're talking about here, and I probably over  
17          simplified it, but that's the way I see it.

18          So with that, what I'd like to do is I'm going to  
19          limit -- who's going to be the police? Is it Rebecca?

20          MS. SAMMONS: I guess that'd be me.

21          CHAIRMAN BURKE: I just -- I'd like to limit to 5  
22          minutes each, and I don't want to -- if you see  
23          someone -- I don't want to hear the same thing over and  
24          over and over. You're going to have to make those type  
25          of decisions, but I do want to get -- you know, get --

1           you were scheduled. I want to hear you out.

2           And was it -- David Venters, were you part of that  
3           first letter that was written by a group of five  
4           engineers?

5           MR. VENTERS: Yes, sir.

6           CHAIRMAN BURKE: Would you like -- I want to start  
7           off with you.

8           MR. VENTER: I appreciate that. Now?

9           CHAIRMAN BURKE: Yeah. Make sure that you get  
10          close enough to the mic so we can hear, and we have a  
11          court reporter, and we're going to -- so we tie things  
12          down and...

13          MR. VENTERS: Okay. Great. I want to thank the  
14          board for having us to here to discuss this issue.

15          Mr. Chairman, your description of commissioning  
16          was pretty good. I just do want to add, though, that  
17          per the ASHRAE guidelines -- ASHRAE is the American  
18          Society for Heating, Refrigeration and Air Conditioning  
19          Engineers. Their standard guidelines -- excuse me --  
20          is about commissioning and actually extends into  
21          predesign. Okay?

22          There are tasks involved where you actually -- as  
23          a commissioning agent, you'll meet with the owner,  
24          discuss technical requirements for what he wants his  
25          building to do, his systems to do, the interaction of

1           those systems. Okay.

2           It's very technical, and so that begins the  
3           predesign, and those requirements and those things get  
4           handed off to the engineers to then execute the design  
5           to meet those requirements, and all those technical  
6           requirements that we're talking about are what they  
7           call owner's project requirements, and those get  
8           validated all the way through the project, including  
9           after the design there's a design review that the  
10          commissioning agent has to execute.

11          Following that, one gets into construction. We're  
12          going to do a submittal review along with the engineer.  
13          Okay. And then once it gets into construction, we're  
14          going to do inspections. We're going to do functional  
15          testing where we actually make sure the equipment  
16          operates the way it's suppose to for the sequence of  
17          operations. We get involved if there's issues that are  
18          found and try to assist in the resolution of those  
19          issues if the equipment or the systems don't interact  
20          the way they're suppose to per the owner's technical  
21          project requirements. So it's not just the  
22          construction phase scope of work that the commissioning  
23          agent executes.

24          And so with that in mind, you know -- and this  
25          ASHRAE standard is pretty much the industry standard.

1           Other organizations have produced commissioning  
2           guidelines as well, and those tend to focus on the  
3           construction, and that's fine. I think even those will  
4           meet the definition of engineering, but even those now  
5           are starting to converge upon the standard of ASHRAE  
6           where we begin the process in predesign developing  
7           technical requirements with the owner.

8           So, you know, and I know you guys are very  
9           familiar with the Florida statutes, but once again, I  
10          just want to kind of highlight certain aspects of the  
11          statutes where we feel that commissioning has met, you  
12          know, the definition of engineering and professional  
13          service and, therefore, would fall under the  
14          requirements to have an engineer, a licensed  
15          professional engineer, as a responsible charge.

16          And at no point are we suggesting that only an  
17          engineer, a licensed professional engineer, can execute  
18          these services. All we're suggesting is that, just  
19          like a design project or any other engineering project,  
20          we have an engineer in responsible charge. And, like  
21          you said, there's two-odd page full of descriptions of  
22          what that means.

23                       (Ms. Young arrived.)

24           MR. VENTERS: In fact, the -- you know, right away  
25           it talks about, in the definition on 471 for

1           engineering, that, you know, any consulting,  
2           investigating, evaluation and planning -- well, that  
3           just described most of the predesign and design phase  
4           commissioning aspects, where you're meeting with the  
5           owner, you're helping them develop technical  
6           requirements, you're planning the project in a sense  
7           and then planning on how you're going to do the  
8           commissioning process, inspect the project when it's  
9           getting under construction. So there's a lot of  
10          consultation. There's a lot of planning, just as  
11          required by the definition of engineering.

12                 And then we get to -- you know, and even the other  
13          requirements, the other tasks also meet that  
14          definition. I really want to jump, since I only have  
15          five minutes, down to one of the last ones, and that is  
16          the inspection of construction for the purposes of  
17          determining in general if the work is proceeding in  
18          compliance with the drawings and specifications.

19                 Now, I mentioned the owner project requirements  
20          initially. Well, those requirements get built into the  
21          plans and specs. Okay. In fact, that's what the  
22          commissioning agent is there to do, is to make sure  
23          that anything the owner wanted is put into the design,  
24          and that becomes the drawing and the specs for the  
25          project. So the inspection of construction for

1           purposes of determining in general if the work is  
2           proceeding in compliance with the drawings and specs --  
3           that's the construction phase commissioning, that  
4           aspect of it, and that, like I said, applies to both  
5           the ASHRAE standard, which is essentially the industry  
6           standard, as well as those developed by other  
7           organizations that focus on the construction phase  
8           piece of it.

9           One of the things I'd like to do is -- in fact,  
10          one of those organizations did write a letter to you  
11          guys and included in there a report of what constitutes  
12          commissioning, and in there he says commissioning is  
13          the verification that the contract documents, the plans  
14          and specifications, and installed equipment and systems  
15          are operational, functional, maintainable and conform  
16          to the industry's best practices and the systems and  
17          equipment are ready to take over by the owner.

18          Well, what's the definition of engineering? The  
19          inspection of construction for purposes of determining  
20          in general if the work is proceeding in compliance with  
21          the drawings and specifications. Their own words, this  
22          other organization's, agree with us. It meets the  
23          definition of engineering, I mean, almost word for word  
24          here.

25          You've got other, you know -- it goes on. The

1 process focuses upon verifying, documenting that the  
2 facility and all its systems and assemblies are  
3 planned, designed, installed, tested, operated and  
4 maintained to the owner's project requirements, which,  
5 like we said, is in the design and specs. Well, plan,  
6 you know, consultation, planning, evaluation,  
7 investigation -- it's right here in the definition for  
8 engineering.

9 CHAIRMAN BURKE: Times up.

10 MR. VENTERS: Thank you very much. Thank you for  
11 your time.

12 CHAIRMAN BURKE: David Boree?

13 MR. BOREE: Yes. Hello. I'm David Boree. I'm a  
14 registered engineer from Jacksonville. Thank you for  
15 allowing me to speak.

16 I've been in the mechanical profession for 29  
17 years, and I wanted to speak on this subject because I  
18 feel that it would be a problem for this to pass. I'm  
19 against this passing because I've seen projects with  
20 commissioning requirements, and I have seen certifying  
21 agents that have performed -- professionally trained --  
22 and performed very well, and I am in agreement that the  
23 engineer of record should be the sole responsibility  
24 for a project. He should be the only engineer in  
25 charge of design.

1           I feel like we shouldn't have a problem when the  
2 engineer designs a 100-ton chiller and a commissioning  
3 agent thinks it should be a 150-ton chiller. I think  
4 that's a conflict or if the two thinks that it should  
5 be a different type of pumping system or -- and there's  
6 a conflict for that.

7           The way the system is right now, if an owner  
8 desires for an engineer to do the commissioning, he can  
9 do that. A PE can do commissioning. An engineer of  
10 record can specify any certifying agent that he desires  
11 or an owner. There is no prevention of the certifying  
12 agency to not do the work or a government facility or  
13 anyone else. I think in preventing someone from doing  
14 commissioning that qualifies, I believe is wrong, and  
15 that's why I'm here today.

16           I also believe that in passing this violates our  
17 code of ethics. I reference the National Society of  
18 Professional Engineers Code of Ethics, and that's  
19 Paragraph 7(a), and it indicates engineers in private  
20 practice shall not review the work of another engineer  
21 for the same client, except with the knowledge of such  
22 engineer, unless a connection of such engineer with the  
23 work has been terminated. I feel that that's of great  
24 importance, unless we revise that ethics violation.

25           I also think that it's a liability issue. I



1 brought the ASHRAE standards with me. I do not agree  
2 with the definition that you just heard. Being in the  
3 industry as long as I have, commissioning is an  
4 inspection process. Commissioning is indicated as a  
5 process which the engineer of record and owner request  
6 that their requirements be checked and that what they  
7 desire for a project is installed as requested.

8 The pre-engineering meeting that we just heard  
9 about is a communication tool that all design persons  
10 go to a meeting and communicate with one another. All  
11 parties are present. You're not there to design.  
12 You're there to be present. You're there to  
13 communicate your industry expertise and give input from  
14 what you know as a tool to. The engineer of record is  
15 there. He's responsible for the design, and he gives  
16 his input.

17 This is -- this is my input to this discussion,  
18 and this is why I'm here today. This would allow  
19 the -- and leaving this intact, this would allow the  
20 certifying agents, such as NEBB, ACG and ASHRAE and  
21 PEs, to continue to do commissioning.

22 So another interesting point is the Texas Board of  
23 Engineers was approached with this same issue, and it  
24 was dismissed, so I'd like to point that out. In my  
25 opinion -- the North Carolina Board of Engineers

1 approved this. I think, in my opinion, there was no  
2 opposition because I'm very surprised that it passed,  
3 and I would like to go to North Carolina and discuss  
4 the facts with them after this meeting. I'm very  
5 surprised that it passed.

6 So I'm asking today that someone make a motion and  
7 drop the suggestion that requires only a PE to perform  
8 commissioning. Thank you.

9 CHAIRMAN BURKE: Thank you.

10 Mr. Bauers?

11 MR. BAUERS: Thank you, Mr. Chairman and board  
12 members. My name is Jerry Bauers. I'm a licensed  
13 professional engineer in the State of Minnesota, and  
14 recently, just five years ago, I was licensed here in  
15 Florida. I'm the national director of commissioning  
16 for a national organization with 120 commissioning  
17 providers, and I'm chairman of NEBB Building  
18 Commissioning Committee.

19 I'd like to offer our experience. You have our  
20 letter. I think it's fairly detailed and  
21 self-explanatory. I want to highlight two or three  
22 things in the course of this five minutes that are very  
23 important.

24 First of all, one of the things you have to  
25 understand about commissioning, one of the basic

1 tenants of every commissioning standard in existence  
2 today, is that the commissioning agent does not assume  
3 or compromise in any way the authority of the engineer  
4 of record. The commissioning agent -- the  
5 commissioning agent's role is to support the engineer  
6 of record, to understand the intent of both the owner  
7 and the engineer of record, to facilitate on behalf of  
8 those parties communication with all parties to the  
9 construction and operational process the intent the  
10 engineer of record has for constructing the project.

11 I'd also point out that the commissioning -- our  
12 commissioning standards hold on commissioning. The  
13 commission standard and the commissioning process, this  
14 being the point of the day, covers multiple  
15 disciplines, including architectural and general  
16 construction as well any repeat construction, so it  
17 extends beyond the engineering profession. We stand as  
18 a support mechanism for the design professions.

19 The second thing I'd like to suggest, and perhaps  
20 going back to the engineer of record, if we have two  
21 engineers on the job, if we have two engineers in  
22 responsible charge of different elements of the  
23 construction process, the risk that you take is you can  
24 confuse responsibility and the legal protections of  
25 those responsibilities in the Florida statutes that

1 engender on behalf of the owner.

2 In our opinion, in our process and in our  
3 training, the engineer of record is responsible for the  
4 project, not the commissioning agent. The  
5 commissioning agent stands as a support mechanism and a  
6 facilitator to deliver not only buildings in  
7 conformance with design documents but performance in  
8 accordance with the owner's intent.

9 The second thing I'd like to talk about real  
10 briefly is experience necessary to be an effective  
11 commissioning agent. Not only are those design skills  
12 and familiarity with the design process valuable tools,  
13 but hands-on, technical skills are essential to the  
14 commissioning process on behalf of the engineer of  
15 record, on behalf of the owner.

16 It's our obligation to understand not only the  
17 intent of the project but the details that make that  
18 intent work. So it hands-on skills, programming skills  
19 and understanding the challenges that operators have in  
20 operating buildings over the long term. It's those  
21 skills that are necessary to be effective in delivering  
22 commissioning. It's not just about delivering a  
23 constructive building. It's about delivering  
24 performance, and it's about delivering information to  
25 the building operators so that they can sustain the

1 performance that the engineer intended in its design  
2 documents.

3 The -- the last thing I'd like to talk about is  
4 how you certify a commissioner. How do you  
5 determine -- your role, if I can interpret it, and tell  
6 me if I'm wrong, is to protect the consumers of the  
7 State of Florida. That's essentially what the  
8 licensure laws do. They create a standard against  
9 which consumers can rely on your certifications and  
10 your registrations to understand whether or not people  
11 are competent to deliver the services which you're  
12 looking for.

13 If in fact commissioning is a broad  
14 multi-disciplinary discipline, a skill, if it  
15 transcends engineering and architecture, if it includes  
16 communication and team building, all those skills are  
17 necessary to make commissioning work.

18 Remember a commissioning agent is charged with  
19 delivering performance on projects on which typically  
20 he has no authority. He has no financial authority.  
21 He doesn't have the ability to approve pay requests.  
22 If that's true, it is appropriate to look for  
23 mechanisms that demonstrate those skills.

24 The licensure laws require that we pass tests,  
25 that we demonstrate experience. All the commissioning

1 certification agencies have similar requirements, and  
2 we would suggest that, much like states are moving  
3 towards discipline-specific licensure, the PE license  
4 and the licensure process doesn't address that broad  
5 range of skills, and if there's a need to do that in  
6 the State of Florida -- and we think perhaps there  
7 is -- there's other alternatives for doing that, rather  
8 than the promotion that exists here today.

9 CHAIRMAN BURKE: Thank you.

10 Mark Smith? Mark Smith?

11 MR. SMITH: Good afternoon, board members. My  
12 name is Mark Smith. I'm a certified contractor here in  
13 Tampa, and I'm neither a professional engineer nor a  
14 commissioning agent, and I'm here really to give you my  
15 opinion as an interested party that has performed in  
16 the construction industry over the last 25 years, and  
17 I'm here in support of a requirement to require  
18 professional engineer licensing for commissioning.

19 I have been blessed for 25 years to participate in  
20 the construction industry here in Florida, and I've had  
21 the opportunity of over 25 years to review the plans  
22 and designs of many buildings here, and I've also had  
23 the opportunity to have reviewed the work output of  
24 non-professional participants in our industry that have  
25 a great broad range of impact on the buildings and the

1 public safety and health of our citizens.

2 Over 25 years of my construction experience -- I'm  
3 sorry. Let me -- let me start all over. I'm not real  
4 good at speaking in front of you all. It is my opinion  
5 that the practice of commissioning should require the  
6 professional performance that is sometimes lacking from  
7 the work output of non-professional firms.

8 I believe that test and balance trade  
9 organizations have branched out into commissioning as a  
10 revenue enhancement opportunity for their -- for their  
11 members and for the organization itself. I believe  
12 that commissioning is fact packaged, construction,  
13 administration, engineering services, under the  
14 responsible charge clause of the statute.

15 While test and balances practitioners provide a  
16 very useful service, I believe that they lack a  
17 professional licensing, and they do not accept the  
18 liability required of an engineer that's just very  
19 important to the performance of our buildings.

20 Typically, test and balance contractors deal  
21 mostly with HVAC systems, and typically, they do not  
22 evaluate envelope systems or roof systems, and more  
23 importantly, they usually do not evaluate life safety  
24 systems, which is extraordinarily important to -- to  
25 the safety of our public.

1           Test and balances contractors are usually  
2           subcontractors to the mechanical contractor or the  
3           general contractor. Sometimes they contract directly  
4           with the owners, but their performance has very varied.  
5           Their performance can be as varied as the color of  
6           one's hair, and that's also true of professional  
7           engineers, but there's a standard of liability that  
8           comes along with the engineer that just doesn't exist  
9           with non-licensed, non-professionally licensed firms.

10           I would disagree with Mr. Boree's statement that  
11           we have a violation of the code of ethics because I  
12           believe that the ethics refers to review of an  
13           engineer's design and not review, necessarily, of the  
14           constructed building nor the building plans in general  
15           as a finished product.

16           I would like to urge you to require professional  
17           licensing as an engineer into the statute to perform  
18           the commissioning process and attached. Thank you very  
19           much for your attention.

20           CHAIRMAN BURKE: Thank you.

21           Peter Scott?

22           MR. SCOTT: Good afternoon. I'm a licensed  
23           engineer in Florida, North Carolina and recently in  
24           upstate New York. I have a few more years than some of  
25           my previous speakers.



1           I'm concerned about the lack of responsibility  
2 going down through the chain of command when a project  
3 starts. Invariably, we have an architect and an  
4 engineer that's a subcontractor to the architect.  
5 There seems to be a developing motion whereby the owner  
6 engaged in service of commissioning agent direct is  
7 also known whereby the commissioning agents are  
8 interfering with the design process in the early part  
9 of the stage.

10           They want -- I'll give an example. Now supposing  
11 an engineer wishes to use a 200-ton chiller but the  
12 commissioning agent says 150 is adequate and eventually  
13 it doesn't work, who exactly is accountable for this  
14 failure?

15           This is the problem I see developing. I listen to  
16 people talking, and I hear that this activity is  
17 starting, and if we have a licensed engineer in the  
18 commissioning agent, I feel they're going to try and  
19 pull their weight against the engineer of record.

20           Now it would appear to be a situation where the  
21 owner is paring his costs and doesn't want to hire the  
22 engineer for observation visits. One doesn't make  
23 inspection visits anymore. Observation visits are the  
24 only thing we make. If this is the case, then the  
25 owner is passing the buck onto the commissioning agent.

1           Now as I understand in the construction -- and I  
2           have supported some attorneys for over 30 years in  
3           litigation about this problem -- when a project is let,  
4           there's a general contractor that has a series of subs.  
5           It's the responsibility of the subcontractors to put in  
6           what's shown. Now then the engineer is accountable for  
7           what is designed, and the commissioning agent -- his  
8           job is to make it -- to set it to work, not make it  
9           work, set it to work, and if I doesn't work, then he  
10          has the opportunity to recommend and suggest to the  
11          original design engineer that certain changes could be  
12          made.

13           But I am concerned that the commissioning agents  
14          are taking over the design capabilities of the engineer  
15          of record. I believe this is a real problem  
16          developing, and obviously, some mature commissioning  
17          people would hesitate to do that, but some of the  
18          younger people coming in are taking the position that  
19          they are the commissioning agent; therefore, you have  
20          to do it this way. If they are then supported by a PE  
21          license, I think all hell's going to break out.

22           This great problem's developing, and I have a  
23          feeling that there's no need to have a licensed  
24          professional engineer. Many well-established  
25          commissioning agents and test and balance are perfectly

1           capable of setting something to work, but the engineer  
2           of record carries the responsibility, and if he doesn't  
3           know how to design it, he should walk away. That's his  
4           responsibility.

5           CHAIRMAN BURKE: Thank you, Mr. Scott.

6           Steve Young?

7           MR. YOUNG: Good afternoon. My name is Steve  
8           Young, and I'm here to represent the ACG Commissioning  
9           Group. The ACG Group Commissioning Group is a  
10          nationally recognized commissioning certification  
11          organization. It's made up of members all across the  
12          country. It has a commissioning guideline, and it  
13          certifies commissioning agencies and companies to  
14          provide commissioning services.

15          Approximately, 60 percent of the members of the  
16          ACG are registered professional engineers in the state  
17          in which they operate, but the board of directors,  
18          which is made of seven members -- let me back up.

19          You should have in your packet a letter written by  
20          the ACG to the board, and there should be a  
21          supplemental statement by the board of -- signed by all  
22          the board of directors basically backing up the  
23          national director's letter, and if you'll notice,  
24          seven -- six of the seven board members are registered  
25          PEs in the states that -- that they operate.

1           Contrary to certain assertions, commissioning  
2           providers perform no design work, no peer reviews, no  
3           engineering surveys, no teaching of engineering, no  
4           inspections of construction or any other services that  
5           they quote from the -- that quotes from the Statute  
6           471. The commission process, in fact, leaves all  
7           engineering decisions in the complete control of the  
8           project engineer of record, which is what Mr. Scott's  
9           concern previously stated.

10           As a side note, I come from the test and balance  
11           industry another gentleman had spoke about. In 1973  
12           the standards of that organization produced what they  
13           call a total system balance. This was before the  
14           concept of commissioning was brought forth by ASHRAE in  
15           '82 or '84. I forget when they first -- when ASHRAE  
16           first started to talk about commissioning.

17           The total system balance concept was the concept  
18           that testing and balancing was more than just the  
19           balancing of air and water, that it would include the  
20           functional performance test of the equipment, capacity  
21           testing of coils, controls validation and verification  
22           and looking at the entire system, making sure that the  
23           system functionally worked to make sure that the  
24           engineer -- engineer of record's design intent was  
25           going to be accomplished.

1           In all that time since that beginning, test and  
2           balance companies -- certified test and balance  
3           companies have been trying to obtain that goal. Not  
4           once has -- to my knowledge has the Department of  
5           Professional Engineers ever -- ever wanted to regulate  
6           or state that in order to be -- to perform test and  
7           balancing in the State of Florida that you had to  
8           have -- that you had to work under a PE license.  
9           Probably because, in my opinion, that the test and  
10          balance has to be verified by the design engineer of  
11          record. The design engineer of record has to accept  
12          the facility.

13                 It's no different toward commissioning.  
14          Commissioning does not have to be performed on any  
15          project. It's not -- it's not a regulation. It  
16          doesn't have to be -- it doesn't have to be performed  
17          for the safety or the occupancy of the building or to  
18          pass any code. It is a documentation process, a  
19          verification process that the plans and specifications  
20          are truly working, and I do not believe that it is  
21          required to have a professional engineer to be licensed  
22          to perform this work. Thank you.

23                         CHAIRMAN BURKE: Thank you.

24                         Eric Jenison?

25                         MR. JENISON: Chairman Burke and members of the

1 board, I'd like to thank you for this opportunity to  
2 speak to you concerning this most important issue.

3 My name is Eric Jenison, and I am President and  
4 CEO of Total Dynamic Balance located in South Florida,  
5 Deerfield Beach, a building systems commissioning and  
6 test and balance provider in the State of Florida.

7 My company is certified by the National  
8 Environmental Balancing Bureau as a commissioning and  
9 TAB provider, and I'm also a NEBB certified  
10 professional. I am not a Florida registered  
11 professional engineer. I have been TAB certified since  
12 1987, commissioning certified since 1991.

13 I was honored to be the NEBB national president in  
14 2006. I am also a USGBC LEED accredited professional  
15 as as well an ASHRAE commissioning process management  
16 professional. I have over 28 years' experience in the  
17 building industry.

18 I have been providing commissioning services since  
19 1991 when I became NEBB qualified in commissioning, and  
20 I have provided commissioning service for many  
21 projects, including hospitals, research facilities and  
22 higher educational projects.

23 I'm going to skip some of this because it's been  
24 previously stated, to save time. In my opinion, the  
25 commissioning provider at no time circumvents the

1           responsibilities of the engineer of record. The  
2           engineer of record is the sole entity for each area of  
3           responsibility within the project. There can only be  
4           one engineer of record for the project. The  
5           commissioning provider is in a unique position to  
6           support the engineer of record with his or her designs,  
7           investigations and the final acceptance of the project.

8           I have built a strong reputation over the last 20  
9           years with the engineering community, supporting them  
10          in the -- within the construction process. The  
11          commissioning services that I can provide as a  
12          technical commissioner are invaluable during the  
13          design, construction and acceptance phases of the  
14          commissioning process, and I just wanted you to know  
15          that -- my background and my position -- that this not  
16          be brought forth to be a licensed thing.

17          CHAIRMAN BURKE: Thank you.

18          Eric Coffin?

19          MR. COFFIN: Thank you very much for your time  
20          today. My name is Eric Coffin of Green Energy  
21          Engineering, Incorporated, and I'm here to say that  
22          commissioning as we've heard should be professional  
23          engineering, but let me just comment on a few things.

24          First of all, North Carolina, South Carolina and  
25          Idaho have already said that commissioning needs to be

1 a professional engineering license.

2 Commissioning certifications in no way is a  
3 replacement for professional engineer education. The  
4 engineering curriculum and that experience has been in  
5 place for many years, and we bring a lot of experience  
6 to the job, which is not there with some of the other  
7 certifications. Now that's not to say that those other  
8 certifications are not required because when I go out  
9 to a job, while I do own a multi-meter, as you put it,  
10 I'm not the one at the end of that feeder making that  
11 voltage measurement.

12 I'd also like to kind of comment and separate  
13 things now just a little bit, and that is that I think  
14 professional engineers should be responsible for the  
15 design and the systems and all the specs and all the  
16 drawings, and I think that we need some test and  
17 balance folks who are out there in the field, doing  
18 some measurements, doing some inspections and verifying  
19 that certain things are operating as the engineer  
20 designed them to operate.

21 Now notice as I look at that two spectrum, I talk  
22 about professional engineers over here doing design and  
23 test and balance over here, and I think that if we were  
24 to simply drop the word "commissioning," then we  
25 wouldn't have what appears to be here is a turf war.



1 Thank you very much.

2 CHAIRMAN BURKE: Thank you.

3 Is there anyone else who would like to speak  
4 regarding this issue? I'm going to have our board ask  
5 any questions or speak in just a second, but don't you  
6 guys see why we have our rules? I mean, we've gone one  
7 full circle here from my introduction. Don't you see  
8 why we have our rules there the way they are? We cover  
9 everything on both sides that you've talked about here  
10 today. The problem is you need to file some  
11 complaints.

12 If you see by our definitions anyone in the  
13 commissioning process practicing engineering by our  
14 definitions, file a complaint with this board.  
15 Mr. Rimes here will be glad to do the investigation and  
16 prosecute them if that's the case. I mean, we've  
17 gone -- that's the way I see it. I think our rules  
18 cover everything you've talked about here today.  
19 You've just got to apply them.

20 And that's -- board members, I would like to hear  
21 from -- I just feel real strong about this, but I'd  
22 like to hear from you, and we're not going to do  
23 anything today, or maybe we'll never do anything with  
24 this as it stands right now, but I'm not ready to go  
25 down this path we've been before where you try to get

1 real narrow on defining what's engineering and non-  
2 engineering by a title, in this case commissioning.

3 Quite frankly, I don't care what Carolina, Idaho,  
4 South Carolina's done. I mean, they've done it, and  
5 they may have some issues in dealing with it when they  
6 go to get a case.

7 There are definitely parts. I mean, you've talked  
8 about the commissioning. A lot of it is engineering,  
9 and people practicing it all and don't have a license  
10 should be charged with unlicensed activity. Those  
11 firms that are doing it should have a certificate of  
12 authorization if they're doing engineering according to  
13 our definitions, 471 and 61G-15.

14 Board members?

15 DR. EARLE: Mr. Chairman, in response to your  
16 invitation to comment, as I listened to the presenters  
17 what is evident from my perspective is that there is no  
18 clearly defined rule of the commissioning engineer, or  
19 if there is, it did not come out in today's  
20 presentations, and so that for me is a big question.  
21 What exactly is the defined rule of a commissioning  
22 engineer? Anyone answer that?

23 MR. VENTERS: What's the question again?

24 DR. EARLE: What exactly is the defined role of a  
25 commissioning engineer?

1 MR. VENTERS: Defined role?

2 DR. EARLE: Defined role.

3 MR. VENTERS: Oh. This is -- it was included in  
4 the packet that I gave you. ASHRAE is defined -- and  
5 I'll read it out loud, I guess. I apologize. Per  
6 ASHRAE's guideline, the commissioning process is a  
7 quality oriented process for achieving, verifying and  
8 documenting the performance of facilities, systems,  
9 assemblies -- that the performance of facilities,  
10 systems and assemblies meet defined objectives and  
11 criteria.

12 MR. BAUERS: Mr. Chairman, could I explain  
13 briefly?

14 CHAIRMAN BURKE: Yes.

15 MR. BAUERS: One of the things that -- one of the  
16 things you'll find as you look at the procedural  
17 standards, both the ASHRAE guidelines and the  
18 procedural standards of ACG and NEBB, the process is  
19 very clearly defined. The responsibilities are clearly  
20 defined, and to Mr. Chairman's point, the relationship  
21 between the commissioning agent and the engineer of  
22 record and the architect, for that matter, if you're  
23 building, commissioning is clearly defined as a  
24 subordinate role, and that's probably the best place to  
25 look.

1                   CHAIRMAN BURKE: Mr. Hahn?

2                   MR. HAHN: I'm -- I am looking at the rule, and  
3                   it's 471.005, Paragraph 7, and it indicates the  
4                   inspection of construction for the purpose of  
5                   determining in general if the work is proceeding in  
6                   compliance with the drawings and specifications. You  
7                   have to be an engineer to do that according to the  
8                   rules, and as our chairman said, if you are doing this  
9                   and you're not an engineer, then I would expect to have  
10                  a great deal of complaints about this because you, in  
11                  fact, are practicing engineering.

12                  Now Mr. Boree and several others indicated that  
13                  they thought it was against the code of ethics for an  
14                  engineer to practice commissioning, yet 60 percent of  
15                  the engineers -- 60 percent of the ACG are engineers,  
16                  and many, many engineering firms practice  
17                  commissioning, so are they in violation of the code of  
18                  ethics? I think not.

19                  MR. BOREE: I'd like to address that. I didn't  
20                  say that commissioning is engineering. I said if you  
21                  pass this, you are saying that commissioning is  
22                  engineering and that -- therefore, that is saying that  
23                  you are an engineer in commissioning, and that is a  
24                  violation of the code of ethics because you are saying  
25                  that commissioning is a design process, and that would

1           be the same thing as implying that a commissioning  
2           agent is a design engineer because commissioning does  
3           not perform engineering functions, and that would  
4           misrepresent a commissioning agent as someone that  
5           would perform engineering functions.

6           And it may start functions, such as engineering  
7           functions, and a commissioning engineer may -- this may  
8           be the catalyst that starts that, and he may start  
9           performing engineering functions. He may start  
10          calculations of pump design. He may start calculating  
11          load calculations and heat transfer calculations,  
12          checking the engineer of record's calculations. Then  
13          you have two different engineers of -- who knows where  
14          this thing could lead, and that's my point, is in the  
15          code of ethics when we pass -- if this passed, that's  
16          where my concern would be. We are saying it's an  
17          engineering function if you pass this. That's my  
18          concern.

19          MR. HAHN: Well, I think looking at the statutes  
20          and the rules that -- as I said before, in reading it  
21          it's the inspection of construction for the purposes of  
22          determining in general if the work is proceeding in  
23          compliance with the drawings, and if you're doing that,  
24          you're practicing engineering, and you should be a PE.

25          Now if you are doing that and you're not a PE,

1           then I think you can have a complaint filed against  
2           you. I think it's as simple as that.

3           CHAIRMAN BURKE: Yeah. I'll let you speak just a  
4           second. I just want to make something clear. Two or  
5           three you have referred to if this passed. There isn't  
6           anything to pass. We keep talking like we're  
7           entertaining a rule to pass. I know you're requesting  
8           it, but there's nothing to pass here.

9           We feel, this board -- I think I may be  
10          speaking -- at least, I feel we have rules in place to  
11          take care of every concern that's been discussed out  
12          here today, and I don't think this board has any  
13          intention to go to rules committee and write a new  
14          rule.

15          Now go ahead.

16          MR. BAUERS: Thank you, Mr. Chairman. I just want  
17          to real briefly address the issue of inspection because  
18          that's -- it seems critical. One of the things I think  
19          you need to understand is that -- the subordinate role  
20          a commissioning agent holds of the project. His  
21          responsibility is to report to the engineer and the  
22          owner the conditions of the job.

23          So, for example, you're a professional engineer,  
24          you've designed a job and you send a designer or  
25          construction administrator or an architect out to do an

1 inspection, is that the practice of engineering? It is  
2 to the extent that you as a professional engineer have  
3 delegated authority that person report to you, and you  
4 as the engineer of record make decisions on that  
5 report. That's exactly what a commissioning agent does  
6 in the construction phase of a project.

7 His primary responsibility, in fact, is to execute  
8 performance tests to demonstrate not particularly  
9 compliance with the construction documents but  
10 requirements with the performance requirements that are  
11 communicated by the engineer and the owner on the  
12 project.

13 MR. HAHN: I think I clearly understand the  
14 industry. I've been in it for 40 years in air  
15 conditioning and in electrical, worked with probably  
16 every person in this room on a project at one time or  
17 another, and I can only cite what the rules say, and if  
18 you are practicing in violation of these rules, then  
19 you should have a complaint filed against you, and I  
20 don't know that we need any further clarification than  
21 that.

22 CHAIRMAN BURKE: Thank you.

23 Dr. Panigrahi?

24 DR. PANIGRAHI: I believe what they're talking  
25 about is not just the building. It's for any

1 construction project, and as far as I know, most of the  
2 engineering projects that we do along with the plans  
3 and specs all have another document called OMP,  
4 operation and management plan, and my understanding was  
5 that the commissioning is that OM -- the operation and  
6 management plan -- that's the one that you verify.  
7 That's post construction, not during construction.

8 The construction inspection is done typically as a  
9 duty, but there is an engineer in charge that they  
10 design specs. So I don't see how you can do a  
11 construction inspection without representing or without  
12 being represented by a PE, and we are doing that --  
13 most of the work we do is public works project for the  
14 state and county.

15 CHAIRMAN BURKE: Any other comments from the  
16 board?

17 Ms. Young?

18 MS. YOUNG: As a lay member, I guess I just want  
19 to ask a pretty basic question. Is the issue control  
20 or is it fees? Because I've kind of listened to  
21 everybody here, and, again, I'll cut to the chase, kind  
22 of being the business person on the board, because  
23 everybody's kind of danced around that, and I'm a  
24 little concerned about what's the real issue here. I  
25 mean, it seems to me the buck stops with the engineer



1 of record.

2 CHAIRMAN BURKE: Ms. Young, you're so practical.

3 MS. YOUNG: That's what that MBA is for. I mean,  
4 I haven't heard anybody talk about that, and I don't  
5 mean to be disrespectful, but, you know, at the end of  
6 the day, I'm just kind of trying to cut to the chase  
7 about bluntly, I mean, really kind of what the issue  
8 is.

9 I mean, selfishly, it just seems to me to the  
10 chair's point, you know, if somebody's wrongfully  
11 practicing engineering, you complain against them.  
12 That comes to us. That's a core part of what we do,  
13 but nobody's really talked about the business aspect,  
14 and I mean, I'm just -- you know, the whole fee thing  
15 comes up, you know, when we go through, you know, a lot  
16 of the complaints because that's where, I think, the  
17 rubber meets the road. So could anybody just kind of  
18 bluntly -- because I was very rudely late, maybe  
19 somebody talked about it before I got here.

20 MR. COFFIN: Thank you very much, and no, we  
21 didn't cover that, and I did dance around that  
22 800-pound gorilla. Let me just give you a couple of my  
23 personal observations.

24 Number one, I am a professional engineer in  
25 Florida. I also hold a national record. I also hold a

1 worldwide license as a certified energy manager. I've  
2 had my business for two years, and I go around, and I  
3 speak to a bunch of lay people like yourself.

4 Most recently, I was just next door last month  
5 speaking to the real estate group for Tampa Bay, and I  
6 said I do a lot of energy work, and they said, Oh, you  
7 have a LEED certification. I said, No, I don't have a  
8 LEED certification. I'm a professional engineer.  
9 Well, what's that? Well, I'm a certified energy  
10 manager. What's that? I just want to know if you have  
11 a LEED because if you've got a LEED, you can come do a  
12 project for me.

13 So what's happened is that green building and  
14 council and LEED has in fact eroded, that they are  
15 putting themselves into a position of power and  
16 leadership where they want to now direct the engineer.

17 Now I've been involved with the Florida  
18 Engineering Society for a year, and this case came up  
19 because it's down south of here in Sarasota/Bradenton.  
20 The County put out a request for quotation that  
21 basically said we're looking for someone with a LEED  
22 certification who will do the inspections on our county  
23 building, and that came before our professional  
24 concerns committee, and they wanted them to have  
25 professional liability insurance. So that's when we

1           took it up, and we said, Well, it looks like LEED is  
2           now going to be something that is required.

3           So my question, similar to you, was when you go  
4           and take your plans and specs down to the building  
5           department and you ask for permits, do they ask you if  
6           you're a professional engineer or a professional  
7           architect? Yes. Do those city people ask you whether  
8           you have a LEED certification? No. But the general  
9           public, the lay people, that's what they want.

10          So now this name "commissioning" I feel is eroding  
11          the engineer status so that now you simply say I'm a  
12          commissioning agent, and I speak for, and I can speak  
13          to and down to architects and engineers. I will lead  
14          their effort. I will dictate to them how the building  
15          is to be designed from the beginning through all the  
16          phases and then at the end. Thank you.

17          CHAIRMAN BURKE: Thank you.

18          MR. HAHN: I have one more comment. It would seem  
19          to me if this were to be brought to a head, the easiest  
20          way to do it is if any of you out there see a violation  
21          of what is being practiced as an engineer in the  
22          definition of the statute, which I referenced before,  
23          that you would bring a complaint to the board, and it  
24          would be reviewed, and if upheld, you'd have a pretty  
25          good answer of what is required of a commissioning

1 agent or not as far as what their practice of  
2 engineering is.

3 CHAIRMAN BURKE: Yes?

4 MR. YOUNG: Two things I'd like to follow up.  
5 Dr. Earle, you used the term "commissioning engineer".  
6 I don't believe that any of the certifying agencies use  
7 the term "engineer". They use either commissioning  
8 authority or commissioning agent.

9 DR. EARLE: I think I said agent.

10 MR. YOUNG: I heard engineer.

11 And, Mr. Hahn, one question, just a follow up and  
12 a question, I guess, back to the board. I came up in  
13 the test and balancing industry since about -- longer  
14 than I want to say, and without maybe one or two  
15 exceptions over the last 30 or 40 years, specifications  
16 for testing and balancing require the testing and  
17 balance agency to do inspections written by the design  
18 engineer. I'm very confused by that.

19 It's kind of an oxymoron to me sitting in this  
20 room listening to Mr. Hahn read the statute because  
21 that's what just resonated to me was -- and you can  
22 pick up any design project and look at any test and  
23 balance specification and any test and balance scope.  
24 It says the test and balance agency shall perform site  
25 inspections and to review the job for balance-ability.

1           Now what that means -- and I'm adding the word  
2           "balance-ability". That's my interpretation, and that  
3           means we look at the job before the ceiling goes in to  
4           make sure that all of the dampers and devices are in  
5           place so that when we get to the job we can really  
6           balance it because if the contractor left something out  
7           somewhere along the line, then we're just going to have  
8           to stop -- you have to stop and put in a damper. But  
9           any way, that's my question. That's my confusion over  
10          that part of the statute.

11          So when I hear that, then it makes me think that  
12          every test and balance agency has to work under a  
13          licensed professional engineer, and that has not been  
14          the case in the State of Florida, as far as I know.

15          MR. HAHN: Isn't it true, though, that the  
16          specifications further go on to state that your report  
17          will be reviewed by the engineer of record, and they  
18          will approve it?

19          MR. YOUNG: Well, absolutely, but it's the same in  
20          commissioning. The design engineer ultimately has to  
21          review the commissioning document to validate that the  
22          project really meets his design intent, so to me  
23          there's no disconnect there.

24          MR. HAHN: Well, I said if the belief is by any  
25          person who thinks you're in violation of this statute

1 to bring a complaint to the board.

2 MR. YOUNG: But I guess I'm going to turn around  
3 ask the board this question to solve my confusion in  
4 this one-point issue -- and I know that's not what  
5 we're to talk about, but is it a violation? And if so,  
6 then I will stop the practice and notify any design  
7 engineer I'm in the project on that I cannot perform  
8 these services.

9 CHAIRMAN BURKE: We're not going to go there.

10 MR. YOUNG: Okay. I'm sorry.

11 CHAIRMAN BURKE: That's another day. But -- and  
12 if you want to write to the board about that  
13 particular -- see, what happens is these hypothetical  
14 cases -- and we don't have a specs written that  
15 you're -- that you're responding to. The engineer may  
16 be very well involved, the engineer of record  
17 responsible for what you do and I just -- I don't want  
18 to deal with hypotheticals today. We've got a big  
19 enough issue in this room that I want to deal with.

20 MR. YOUNG: I understand.

21 CHAIRMAN BURKE: And so does any other board  
22 member have any comments?

23 Mr. Rimes?

24 MR. RIMES: Just a couple of comments, if I can,  
25 Mr. Chairman. First of all, I think it's important

1           when you look at the definition of the practice of  
2           engineering that the laundry list of things that  
3           engineers do, which includes the inspection of works  
4           and systems, including inspection of construction  
5           during construction just to make sure it complies with  
6           the design documents, are all subject to preliminary  
7           language in the definition which requires that that  
8           work that you're doing when you're doing that  
9           inspection has to be -- has to require engineering  
10          training, experience and the application of special  
11          knowledge.

12                 So there's going to be inspections of stuff during  
13          the construction that are done by a whole bunch of  
14          different people that you don't have to be an engineer to  
15          do. So you can't really answer that question, unless  
16          you know specifically what it is that's being inspected  
17          and what's being asked of the people when they're doing  
18          the inspections.

19                 The other thing I point out that -- in your rules,  
20          you design in the definition of this in 18.001 -- in  
21          part of the definition, you get to evaluation of  
22          engineering works and systems, which is what testing  
23          folks do. You say certain specific things you have to  
24          be a professional engineer to do, and you list them,  
25          what they are. You also then go on to say that certain

1 testing work that's done that is under specific control  
2 of other entities, like the State or the federal  
3 government, are exempted from that requirement that you  
4 be a PE if it would otherwise be so.

5 So there are some entities out there doing testing  
6 and doing analysis that may be subject to specific  
7 requirements of the State or the federal government  
8 that what they are doing might otherwise be  
9 engineering, but because they're under those specific  
10 controls, they don't have to be engineers.

11 Now I don't know whether this is the circumstance  
12 that these folks are talking about. It may be, but  
13 when the board wrote this, they were aware of the fact  
14 that there was overlaps between what people are doing,  
15 testing and analyzing and engineering, and some of it  
16 is engineering, and some of it's not.

17 CHAIRMAN BURKE: Thank you, Mr. Rimes.

18 If there's nothing else, I would -- I want to  
19 thank all of you for your interest in this matter,  
20 coming here and taking your time out of work to address  
21 this board. You may not be going away with what you  
22 wanted to hear, but I think you -- I think you  
23 understand where the board stands. If you don't,  
24 please tell me. Thank you.

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C E R T I F I C A T E

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

I, Penny M. Appleton, Court Reporter for the  
Circuit Court of the Thirteenth Judicial Circuit of the  
State of Florida, in and for Hillsborough County,

DO HEREBY CERTIFY, that I was authorized to and  
did, report in shorthand the proceedings and evidence in the  
above-styled cause, as stated in the caption hereto, and  
that the foregoing pages constitute a true and correct  
transcription of my shorthand report of said proceedings and  
evidence.

IN WITNESS WHEREOF, I have hereunto set my hand in  
the City of Tampa, County of Hillsborough, State of Florida  
this 2nd day of July, 2010.

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Penny M. Appleton

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