

today. The Department also believes that the proposed training requirements are based on sound principles.

#### Proposed Section 437.203: Quality Control

Proposed paragraph (a) requires each HERS provider to establish a Quality Assurance Plan and specifies the minimum elements of that plan. The first element listed as paragraph (a)(1) is the use of a peer review where other raters would be asked to critique the work of each rater as part of a continuing re-evaluation program. Proposed paragraph (b) would require HERS providers to establish a Quality Assurance File and specifies the minimum contents of that file. This paragraph further provides for a minimum updating cycle of two years for the information in this file, or sooner if changes are made to the HERS providers system.

Proposed paragraph (c) would require HERS providers to maintain an electronic database of specific information on each home rated and specifies the minimum content of that database. The main purpose of maintaining this data is to support the monitoring and evaluation activities provided in proposed section 437.204. It may also be possible in the future to link these databases with National or State databases that track default data on mortgages or loans. Only selected parts of the database such as the unique ID number would be needed for that purpose.

The specification of individual elements listed in proposed paragraphs (a), (b) and (c) is based on recommendations from the same organizations referenced in the discussion above on the development of proposed § 437.202 and the Department considers the requirements to represent the minimum effort expected for quality control. Specific recommendations or comments are invited on this subject.

#### Proposed Section 437.204: Monitoring and Evaluation

Proposed § 437.204 requires each HERS provider to semi-annually evaluate the accuracy of ratings being performed by a periodic comparison of predicted and actual energy use.

The Department believes that HERS providers should maintain certain information that would facilitate both their own monitoring and evaluation program and that of an accrediting body or other third-party reviewer. Proposed section 437.204 specifies that, in addition to the data specified in proposed § 437.203, each HERS provider shall maintain a database

consisting of authorizations for the release of consumption information by utility companies. Optimally, the HERS provider could maintain actual consumption data for each rated home, but even if the information were readily available that would place a significant administrative burden on the provider. The Department also recognizes the fact that in many cases these authorizations may be difficult or impossible to obtain, but believes the need exists to make a reasonable effort to do so. This data must be retained for a minimum of 10 percent of the ratings performed or 500 homes, whichever is less, in order to allow the accrediting body or other monitoring entity to make random selections of ratings to review.

#### Proposed Section 437.205: Guideline Compliance

Proposed § 437.205 sets forth two levels of compliance for HERS providers and also sets future requirements for energy analysis tool capabilities. The Department considers this to be a phased-in approach to allow any existing HERS provider to represent themselves as operating in basic compliance with the requirements of this part while in the process of revising certain elements of their existing system to become fully accredited.

Proposed paragraph (a) of this section provides a list of what must be demonstrated to be deemed fully accredited. Proposed paragraph (a)(4) sets forth requirements for the energy analysis tool to pass both Tier 1 and Tier 2 sets of tests of HERS-BESTEST. The Tier 2 set of tests test for the ability to evaluate the following features related to high mass passive solar design:

- Variations in mass;
- Glazing orientation;
- Glazing area;
- South overhang;
- East and west shading.

Proposed paragraph (b) of this section provides for "basic compliance" by providing exceptions (with a maximum two year duration) to the full requirements provided in proposed paragraph (a) of this section.

The exception permitted in paragraph (b)(1) is the acceptance of simplified utility rate structures. Since the rating is based on consumption, the rating accuracy is not compromised and only minor inaccuracies are anticipated in operating cost estimates.

Paragraph (b)(2) allows an exception to the minimum rated features but it is unlikely that any key features would be excluded because the HERS provider would not pass the HERS-BESTEST procedure. The exception is most likely to be used because of the inability of

existing systems to evaluate active solar water heating or passive solar systems.

The exception to the use of standard operating conditions allowed by paragraph (b)(3) is also considered to have minimal impact because of the need to pass HER-BESTEST. If a HERS provider does not use the exact prescribed standard operating conditions the results could be slightly less accurate but they must still be within HERS-BESTEST parameters.

Paragraph (b)(4) allows a HERS provider to be in basic compliance by passing only the Tier 1 set of HERS-BESTEST tests. The additional requirements found in the Tier 2 tests are all related to a high mass passive solar building and are not considered critical for basic compliance.

The exception to specific training requirements allowed under paragraph (b)(5) is provided to recognize the fact that many successful HERS providers may not have training programs that exactly match the syllabus set forth in these proposed guidelines, and therefore are given an opportunity to demonstrate that suitable training has been provided.

The Department believes that the exceptions listed will not significantly compromise the accuracy or the utility of ratings and provide for a reasonable period of time to become fully accredited.

#### Proposed Section 437.206: Accreditation

Proposed § 437.206 states a requirement that each HERS provider operating in voluntary compliance with these guidelines shall be accredited by an accrediting body such as a State or an independent entity meeting the criteria set forth in this section.

In its consultation with various stakeholders in the development of these proposed guidelines, the Department has received conflicting commentary on the need for a system of accrediting HERS providers and certifying the energy analysis tools used by these providers. The leading proponent of accreditation is the HERS Council, supported by its financial community members. Opposition is primarily found in existing operating HERS systems where an accreditation process and/or changes to meet the proposed guidelines could be disruptive to their present systems. Many of the proposed guidelines state that when certain information needed for the rating process is not readily available without destructive disassembly of the home or without costly diagnostic procedures, then standard default values may be used. Such default values are best developed by local entities