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California Energy Commission

DOCKETED
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January 25, 2013

To: California Energy Resources Conservation and Development Commission

Re: Order Instituting Information Proceeding
Docket No. 12-HERS-1

From: CalCERTS, Inc., a California Approved HERS Provider ("CalCERTS")

Second Comments to the Order Instituting Informational Proceeding

Order # 12-1114-6

Docket No. 12-HERS-1

Introduction

CalCERTS submits the following comments to the California Energy Resources Conservation and Development Commission ("CEC") for consideration in the Informational Proceeding, Docket # 12-HERS-1, which seeks comments on four aspects of the California Home Energy Rating System ("HERS") Program noted in section II, "Nature and Purpose of this Proceeding." (References to the "HERS Regulations" are to 20 California Code of Regulation §1670 *et seq.*) CalCERTS will respond to each question in the Order Instituting Informational Proceeding ("OII") separately. Each response will provide some background from the perspective of a HERS Provider, and will provide solutions and suggestions to each of the questions raised.

As a Provider, CalCERTS is tasked with creating a quality assurance program that promotes accurate ratings to protect consumers. (*See* California Public Resources Code §25942) Quality assurance programs must be efficient in order to protect consumers, but they must also be fair to Raters. CalCERTS has always taken its responsibility as a Provider seriously and welcomes the opportunity to comment on this OII.

Before addressing the questions presented in the OII, we must first address how the CalCERTS' Quality Assurance ("QA") Program is characterized in the OII. The characterization of CalCERTS' program as "unrefined, informal, and seemingly improvised" is wrong.

CalCERTS had, and still has, a systematic process that is fair to the Rater.

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CalCERTS developed a QA process that was thorough and balanced fairness to the Raters with advancing the intent of the HERS program to produce accurate and truthful ratings. In the instance of Messrs. Hoover and Davis, who were complainants in the CalCERTS Investigation, the process was complicated by (1) the Raters' unwillingness to participate, and (2) the extent of fraud involved.

CalCERTS welcomes any questions about the then existing QA process.

Nonetheless, CalCERTS has revised and modified its QA Policies in response to concerns raised by the CEC and public comments submitted during the CalCERTS Investigation proceeding. A copy of this policy is attached hereto as **Attachment A** ("CalCERTS QA Policy").

Now to respond to the four items named as aspects about which the OII seeks comments from stakeholders:

OII Aspect #1 - The adequacy of the Provider Quality Assurance Program and related rater disciplinary processes as required in the HERS Program regulation.

In order to effectuate the intent of the HERS Program, Providers must be able to conduct quality assurance efficiently, i.e., quickly and cost effectively. We have had many informal conversations with CEC staff regarding this issue, and we hope that CEC will provide formal guidance on this issue as part of this proceeding.

Comments:

Under the HERS Regulations, Providers must have a Quality Assurance Program that provides for quality assurance for California Whole-House Home Energy Raters and California Field Verification and Diagnostic Testing Raters, ensuring a Rater's work, *and*, a Complaint Response System to respond to customer complaints. (See 20 Cal. Code Regs. §1673(i) et seq.) We provide comments on each requirement below.

Quality Assurance Reviews

CalCERTS conducts quality assurance for California Whole-House Home Energy Raters and California Field Verification and Diagnostic Testing Raters by performing data and field reviews of the Rater's work. The HERS Regulations require Providers to document reviews and to determine whether a Rater's work meets the standards for truth, accuracy and completeness set forth in the regulations. A failure to meet the standards subjects the Rater to further scrutiny, with the regulations silent as to ultimate consequences. (See 20 Cal. Code Regs. §§1673(i)(3)(C).)

CalCERTS has developed its own process to conduct quality assurance reviews. First, data and field reviews are conducted by a QA Field Reviewer who independently collects data, but makes no decisions as to pass or fail of the review. Second, the findings of the QA Field Reviewer are turned over to a QA panel that determines the pass or fail disposition.¹

Failures are due to a variety of reasons, even though CalCERTS has instituted some measures to help manage, and hopefully, diminish the instance of these failures. Some of the reasons for failures are (a) technical deficiencies; (b) training deficiencies; (c) data entry errors; and, (d) conflicts of interest. We discuss each in more detail below.

(a) Technical Deficiencies.

Changes to the Energy Efficiency Standards combined with changes to language within the HERS Regulations have created instances where a Rater will fail a quality assurance review for reasons wholly unrelated to their competency as a Rater. Technical deficiencies in the standards and in the regulations must be addressed so that Raters are not publically punished for circumstances beyond their control. CalCERTS has shared its concern regarding technical deficiencies with CEC staff and requests the CEC to formally address the issue.

(b) Training Deficiencies.

Training deficiencies could be minimized in part by the CEC disallowing challenge exams or modifications of a Provider's full exam. Challenge exams are not currently required to be full exams and cannot ensure a Rater's understanding of the Provider's full curriculum. Challenge exams increase a Rater's risk of failing a Provider's quality assurance review.

(c) Data Entry Errors.

Over the past couple of years, there has been a significant increase in Raters blaming QA failures on data entry errors. Many multi-raters firms have been allowing data entry by administrative staff. CalCERTS has recently

¹ It should be noted that HERS Regulations currently require an initial document review of the first 5 ratings done by a new Rater. This language was written when Raters read and interpreted the Compliance Certificate (CF-1R) to determine what HERS tests were needed. In large firms with multiple Raters, these forms are read by the owner of the rating firm, and summarized and given to the Rater as to what tests to run on a particular home or alteration. CalCERTS has, since its beginning in October of 2003, always required the electronic output file from compliance software to be uploaded into the CalCERTS Data Registry. This allowed CalCERTS to know all HERS tests required, and to not allow an incomplete CF-4R to be entered into our system. This was not foolproof until Regulations *required* all HERS documents to be registered with and generated from a Provider's Data Registry. This part of the Regulations needs to be changed to reflect current practice and technology. So CalCERTS has maintained that the document review process be either stricken or reworded to bring it current.

instituted several corrective measures to address this issue. First, CalCERTS has revised its Rater and Subscriber Agreements using stronger language so that the Rater will be well aware of their accountability for data entry. Second, CalCERTS will notify its Raters whenever their name is put on a rating. Third, CalCERTS has revised its Subscriber Agreement restricting access to the Registry to only registered subscribers. Personnel who might enter data on behalf of a Rater must have their own login and password so that CalCERTS can track data entry and data entry problems. Going forward, CalCERTS intends to subject all Raters who have data entry errors to increased quality assurance review.

(d) Conflicts of Interests.

Conflicts of Interest can result in ethical errors. As the marketplace has become more competitive, due in part to more Raters and decreased construction, CalCERTS has observed increasing numbers of quality assurance failures due to conflicts of interest. These errors are the hardest to prove, but the most important to address. Addressing conflicts of interest protects consumers; but, also protects the Rater who is abiding by the rules, trying to make an honest living. CalCERTS feels obligated to decertify Raters who submit patently wrong ratings favoring contractors or their own profit line.

The CEC must provide better guidance on what constitutes a QA review failure. The regulatory language that a Rater must meet the criteria for truth, accuracy and completeness is insufficient. Providers need guidance on when to fail a Rater, even taking into account the independent actor status that was established through the CalCERTS Investigation.

Complaint Response

It is apparent that the intent of the language in the HER Regulations requiring Providers to maintain a complaint response system is to give customers and consumers an opportunity to complain about the work product of Raters and to expect a response to their concerns. (*See* 20 Cal. Code Regs. §1673(i)(5).) Sadly, this perfectly reasonable and necessary process has been usurped to be used as a tool between a few large rating firms and other Raters to gain business advantage, or to complain about business practices Rater-to-Rater.

The vast majority of complaints received by CalCERTS are by Raters, and not by customers. This use of the HERS Regulations language by Raters to attack competitors has caused an enormous burden on CalCERTS through a siphoning of resources to Rater complaints, rather than consumer protection. CalCERTS updates CEC staff with a record of complaints and resolutions. CEC staff is aware of the hundreds upon hundreds of

CalCERTS' staff-hours spent investigating complaints made by Raters. CalCERTS implores the CEC to provide some guidance and relief to Providers being asked to police Rater complaints.

Impediments to QA Process:

There are several key impediments to performing accurate and effective QA.

First, CalCERTS believes the current quota system is too high, and does not address the reality of the marketplace as it actually functions. CalCERTS' argument that the quota system is too high is *not* due to the action in 2010 that made CalCERTS, through a process completely outside its control, one of two Providers that could register Alteration documents (CBPCA remains approved and active), and simultaneously became the only Provider that could register Whole House Ratings and Building Performance Contractor Ratings.² The overall HERS Industry is growing. At some point in time there will be a much larger number of Raters under a variety of Providers actively working in all areas in California. AB758, and other bills, actions and programs being developed and implemented in the State of California are going to increase the demand for accurate energy efficiency ratings. It is incumbent on CEC to carefully and thoughtfully examine this QA process with an eye towards improving it. Quotas appear to be an arbitrary way to measure Provider diligence, ignoring clear impediments such as access to homes, geography, and costs.

A second impediment to QA processes is that some of the actual HERS features being tested do not lend themselves to the general process of QA as it is described in Regulations, and certainly, they do not lend themselves to the intent of HERS Regulations. A one-size-fits-all approach has been outdated for at least two code cycles, and arguably longer. Examples would include, but are not limited to, the testing of refrigerant charge and airflow, and the timing and logistics of inspecting quality insulation installation and fan watt draw.

Third, and probably the most insipid barrier to completing QA as written in the HERS Regulations is unreliable access to homes to perform the QA field reviews. This is less difficult for New Construction than for Alterations, assuredly, but there are still barriers in New Construction. For instance, New Construction covers subdivisions as well as owner-builder custom homes and some parts of additions and alterations. In the instance of Alterations, the homeowner must allow the QA Field Reviewer into the house for an hour or so during the work week. To do a QA on a Whole House Rating, the QA Field Reviewer must be in the house at least 2 hours, maybe as much as 4 or more in some cases. This is a difficult thing to get to happen. CalCERTS has identified about a 30% refusal rate by consumers (for a variety of reasons) when trying to make an appointment. In a significant number of cases, CalCERTS has actually exhausted all homes that a Rater has done by calling and asking for access and being refused. We also have evidence that some contractors specifically warn the consumer not to allow a QA

² The influx of CHEERS Raters who wanted to remain active and were forced to sign up with CalCERTS and/or CBPCA only amounted to an increase in the number of active CalCERTS certified Raters of about 20%.

review, or it will affect the equipment warranty. These problems need to be discussed among stakeholders, and workable solutions sought out with guidance from CEC.

A fourth impediment is the high cost of doing QA Field Reviews. A Provider has to pay a qualified QA Field Reviewer who is highly trained, monitored and suitable for the field, to go out and do the field work, plus the cost of a person to schedule the appointments, plus the cost of programming the Data Registry to correctly flag the QA needed per Rater per measure, plus the cost of recording in the registry the calls, declines, efforts and results of calls that were unsuccessful. In the case of Whole House and Building Performance Contractor Ratings, all of the above costs are incurred, plus a 2-hour review of simulation software files, reports and other aspects of the Whole House rating that are not measurable by a field visit.

There has been a constant flow of complaints regarding how “expensive” ratings are. It is our hope that the above comments will bring an understanding to the impact that the HERS Regulations has on this important issue.

Solutions to Help Address Impediments to the QA Process:

First and most importantly, all Providers should be required to maintain transparency with the CEC. Providers should at all times provide CEC access to their quality assurance data. If all Providers are working in the open, then there is much less possibility of favoritism, relaxation of QA, development of uneven policies, and Provider-Provider competition that could make it too easy to pass QA requirements.

Second, technology may be used to decrease the frequency of certain types of QA. It may be possible to use the Provider’s Data Registry to perform as much data validation (or direction, in some cases) as possible to ensure accuracy, thus reducing the need for some QA reviews. This must be done, however, without hampering the Rater’s freedom to enter data as needed, and would also avoid burdening the Rater with a data entry process that is too slow, cumbersome, involved or costly.

Third, the number of QA reviews required under the HERS Regulations should be reduced. The reduction could be based on prior success/failure of QA; number of ratings done in a year, and/or presence of an internal QA policy by firms with multiple Raters.

Fourth, in order to expedite QA reviews, the CEC should provide guidance as to what constitutes as passing or failing review. The CEC could identify specific failure parameters whenever possible. For example, providing a specific value of $\pm X$ cubic feet per minute for a duct test would streamline the process and provided continuity among Providers, Raters and Contractors. Similarly, the CEC should provide more or better guidance on when to perform +2 as required by HERS Regulations at § 1673(i)(3)(C). CalCERTS believes that if the CEC was to provide this guidance, it would quickly understand the need to develop alternative testing procedures. For instance, the HERS Regulations currently state that field checks shall occur *after* the submission of the Certificate of Field Verification and Diagnostic Testing for a field

verification rating. This is confusing and unclear as it relates especially to verification of quality insulation installation.

Fifth, sharing the QA responsibility among Providers, Raters, contractors, and multi-rater firms could be extremely helpful in gaining access to perform QA reviews. CalCERTS is currently working out details on some new requirements that we think will be helpful. CalCERTS is setting forth a policy that all CalCERTS Certified Raters must ensure that all homeowners (even the ones who chose sampling, and did not actually see a rater) were notified of the possibility of contact by a CalCERTS QA Field Reviewer. CalCERTS Certified Raters will also be required to supply full, accurate contact information for all rating addresses and homeowners. These policy changes will hopefully facilitate access to homes and educate homeowners of the purpose of the quality assurance review and the HERS Program.

Sixth, requiring Contractors to be notified of a Rater's QA failure could improve the overall HERS Industry. Currently, CalCERTS does not believe there is sufficient connection, without Regulatory language to deal with Contractors who are not monitored by Providers. However, putting Contractors on notice regarding their Rater's accuracy could only improve accountability in the industry.

We have identified what we feel are some key problems, with some proposed solutions that could help the QA Process succeed. These comments are with respect to quality assurance for California Whole-House Home Energy Raters and California Field Verification and Diagnostic Testing Raters as outlined in sections 1673(i)(2)-(4) of the HERS Regulations. But this OII needs to recognize the differences between a Quality Assurance Review Process and an Investigation of a Complaint Process which is outlined in section 1673(i)(5) of the HERS Regulations.

With the exception of the actual data collection process, gaining access to addresses and possible *disciplinary actions* (as opposed to *disposition processes*) there are few common points to the two processes. This has been an area of major confusion, especially by parties to the CalCERTS Investigation. It is our strong contention that the two processes are significantly different and deserve separate policies and discussions. This OII did not request comments addressing the Complaint Response System and the investigation and resolution of complaints. If the CEC has specific question about CalCERTS' Complaint Response System, we will address those in a separate submission.

OII Aspect #2 – Rater Decertification and Discipline by Providers.

In order to effectuate the intent of the HERS Program Providers must be able to address Rater discipline efficiently, timely and cost effectively. Providers cannot be caught in a situation where litigation is threatened every time an unscrupulous Rater is terminated. This would include use of the complaint process set forth in Section 1230 of Title 20 of the California Code of Regulations, which is simply not economically feasible.

Comments:

At least in CalCERTS operations, it is our mission to provide excellent service and training to our Raters. CalCERTS is dedicated to helping consumers have confidence that a CalCERTS Certified Rater is highly proficient, technically superior in the market and ethically reliable to provide truthful, accurate and complete ratings on behalf of the consumer's interests.

The CalCERTS Rater Agreement, required by HERS Regulation section 1673(b) and approved by the CEC, is one of the main documents that identifies Rater discipline. The Rater Agreement discusses various levels of discipline up to and including decertification. Inasmuch as the HERS Regulations do not spell out any guidelines regarding discipline, CalCERTS developed its own language in the Rater Agreement and Subscription Agreement. Before, during and subsequent to the CalCERTS Investigation, CalCERTS maintains that Rater discipline is based on contract principles including the Rater Agreement.³ Again, the CEC has reviewed and approved these agreements, including substantive revisions made when Whole House Raters and Building Performance Contractor Rater designations were approved by CEC.

The CalCERTS Rater Agreement has always clearly defined the terms for termination and/or decertification. However, in response to comments received during the CalCERTS Investigation, CalCERTS has revised its Rater and Subscriber agreements to remove any superfluous language and provide Raters with better documents. CalCERTS is also releasing a newly crafted Code of Ethics statement based on others in the industry; and a refined written QA Policy.

The QA Policy was revised based on comments from the CalCERTS Investigation Hearing. We have invested in expert resources to help revise our QA Policy to (a) provide Raters *more* information about the discipline provisions; (b) provide *more* information about the Rater's role when issues regarding truthfulness and accuracy arise; and (c) to help control widespread problems surrounding multi-rater firms and Rater companies that enter fraudulent data. A copy of CalCERTS QA Policy is attached hereto as **Attachment A**

Solutions:

CEC must provide an alternate process to the 1230 complaint process. Whatever this solution is, it must, by regulation *precede*, but not necessarily *exclude* the 1230 process. The very high cost of the 1230 process is actually unfair to both complainants and respondents. As such it is a burden on the one hand, and a deterrent to use on the other hand. This does not mean the process should go away. It means the use of it should be restricted to proper situations where complaints cannot be handled in any other way first.

OII Aspect #3 – HERS Rater Companies.

³ Subscriber Agreements and Rater Agreements are required by Regulations and are reviewed and approved by CEC in the normal course of Provider Review.

In order to effectuate the intent of the HERS Program, Providers must have the ability to affect the firms who hire Raters. By Regulation, a Rater is certified only individually, and cannot “qualify” a firm under an umbrella-like arrangement or any other arrangement with that intent.

Comments:

Providers currently have no authority under the HERS Regulations to deal with rating companies who have multiple individually licensed Raters either employed, or contracted, or paid on piece work. Nor do Providers have authority over companies that have another main business, but hire a Rater to do ratings and other related work, or a Rating Firm hiring a different Rating Firm under subcontract or other arrangement. CalCERTS cannot excuse its Raters for succumbing to the pressures imposed upon them from employers who are outside of the HERS Program and have cut deals with contractors. Nor, can CalCERTS protect consumers from multi-rater entities who promise contractors passing verifications or who have found ways to usurp the system.

Solutions:

CalCERTS has implemented a few changes over the past year to try to address the problems created by multi-rater companies. First, CalCERTS has recently revised its Subscriber Agreements so that employers of raters must enter into a contract with CalCERTS if they want their raters to have access to CalCERTS Registry. Second, CalCERTS has greatly restricted those who can have access to its registry, requiring all users to have individual and exclusive logins. Third, and **most importantly**, CalCERTS has adopted a new-to-the-industry flat-rate pricing model. A flat-rate model will help decrease undue influence on Providers by large volume raters, whether multi-rater firms or not.

CalCERTS strongly believes that in order to maintain the “arm’s length” nature of the Provider-Rater relationship, there can be no financial incentives such as volume pricing, or volume discounts on invoices, or any other favorable pricing given to any Rater or rating firm. CalCERTS announced in November 2012 the implementation of flat-rate pricing that will begin on March 4, 2013. CalCERTS encourages the CEC to formally recognize volume discounting as a conflict of interest between HERS Rating Companies and Providers.

CalCERTS strongly asserts that Provider pricing *should not be controlled*, in terms of how much a Provider can charge, or for what services. The market must operate freely and competitively, but Providers must be unequivocally unbiased in their oversight duties.

In addition to the three items identified above, CalCERTS is in the process of deciding whether it is feasible and prudent to require multi-rater companies to pay for additional quality assurance reviews of all the company’s raters when one of the company’s raters fails a QA review or receives significant discipline. This policy could encourage multi-rater companies to promote

accurate rating because there would be an economic incentive to avoid the costs associated with imposed QA reviews. CalCERTS welcome's the CEC's input on this proposal.

OII Aspect #4 – Conflicts of Interest.

In order to effectuate the intent of the HERS Program conflicts of interest must be clearly defined in a way that Providers can monitor and discover possible conflicts of interest.

Comment:

Since the beginning, the potential for conflicts of interest to arise in the market has always been recognized by the CEC. But the market and the types of situations that occur have greatly expanded and become more complex in the ensuing code cycles. CEC must provide more guidance with respect to conflicts of interest. Up until the present, Conflict of Interest (COI) has been very specifically defined in essentially only three terms: (1) Rater cannot work for the installing subcontractor; (2) Rater cannot have financial interest in the project being rated; and (3) the Rater cannot increase business from making recommendations about contractors. More recently, language was added emphasizing the necessity for “arm’s length” relationships between Providers and Raters.

While these are true and important, they stop short of meeting the need in the current market.

Solutions:

CalCERTS requests the CEC to publish a guidance document more clearly defining Conflicts of Interest. This document could provide questions and answers that more accurately reflect the current market.

Promoting Industry Growth and Achieving Energy Conservation.

When the HERS Program was developed by the CEC, they approved CHEERS as the first and only Provider. For some time, there were only a few HERS requirements to be verified. The use of computers was not as ubiquitous as it is now and there was not a lot of stimulus to grow the industry. But as time passed and more and more areas of California were affected by the HERS requirements, the industry needed to grow and evolve from its original industry posture.

In 2003 CalCERTS brought a new perspective to the market through innovative processes and technology. This innovation led to registration of HERS documents beginning in 2010. This promoted and helped achieve the acquisition of much more data than was being captured prior. American Recovery and Reinvestment Act funded programs put an enormous amount of pressure on the HERS industry by funding HERS ratings in a variety of ways, and also by supporting and subsidizing Rater training.

All of this adds up to a larger, more robust HERS industry, but, as with many things, there are “growing pains.” CalCERTS believes that Providers must support the HERS Program by promoting consumer confidence in HERS Raters through high quality training, solid and timely QA, and high quality ratings by raters. Providers have a unique position to lead and set examples through their oversight of the industry. However, Providers cannot stand alone.

CalCERTS certainly appreciates all the CEC has done to date to build up, support and promote the California HERS Program, but still more can be done. Specifically, CEC should invest more time and effort at making sure permits are being pulled.⁴ There is some private industry activity ongoing, but those efforts need support from CEC. Also, the CEC must make sure that the process is as transparent as possible to promote its use, and consumer demand for the product. The use of technology can greatly facilitate transparency.

Conclusion

In order to effectuate the intent of the HERS Program, Providers must be able to address rater discipline efficiently, timely and cost effectively. CalCERTS has identified several specific ways the CEC can help by providing guidance and structure. Providers must be *encouraged* and *enabled* by regulation to act in ways that will promote and grow the HERS Program. Producing better raters, improving rater accuracy, and promoting consumer education and confidence in California HERS Program all support California’s mission to promote energy savings and efficiency.

Sincerely,



Michael E. Bachand,

President, CalCERTS, Inc.

⁴ Due to the poor economy, low permit volume, low consumer uptake on HERS ratings and other reasons, only about 30-40% of current Raters actually submit ratings to CalCERTS. Getting more permits could provide a substantial boost to putting a large number of workers, entrepreneurs, and other business people back to work directly in the HERS industry, but also in all the support services accessed by Raters in the normal course of business.



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ATTACHMENT A

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CalCERTS' Quality Assurance Policy

California's Home Energy Rating System ("HERS") regulations require CalCERTS to have a Quality Assurance Program. (Title 20, California Code of Regulations §1670 *et seq* ("HERS Regulations").) CalCERTS' Quality Assurance Policy ("QA Policy") provides information about CalCERTS' Quality Assurance Program and identifies the rights and obligations of CalCERTS and CalCERTS certified Raters. The QA Policy is designed to promote the HERS Industry and consumer protection by ensuring that all CalCERTS certified Raters are complying with the HERS Regulations.

Quality Assurance Data & Field Reviews

- CalCERTS will conduct quality assurance data and field reviews on CalCERTS certified Raters.
- Quality Assurance reviews will be conducted by CalCERTS' Quality Assurance Reviewers who are approved by the State of California Energy Resources Conservation and Development Commission ("Energy Commission"). Data and field reviews are designed to verify the completeness and accuracy of a Rater's work.
- Raters must provide the Homeowner on Alterations, and the Builder (or builder's representative) or Homeowner on New Construction, with a standardized written notice, provided by CalCERTS, regarding the possibility and purpose of a CalCERTS quality assurance review.
- Raters must provide CalCERTS with the name and contact information of the Homeowner on Alterations, and the Builder (or builder's representative) or Homeowner on New Construction, to help facilitate the scheduling of quality assurance reviews.
- Raters will not be notified when quality assurance reviews will take place.
- If the quality assurance reviews indicate that the Rater met the criteria for truth, accuracy and completeness, set forth in the HERS Regulations, the Rater will not be notified of the quality assurance review results. CalCERTS will maintain a record of the review in the CalCERTS Registry. The Energy Commission will have full access to these results.
- If a Rater fails a quality assurance review the Rater will be given a written notice containing the review results. The Rater will be subject to additional quality assurance reviews pursuant to section 1673(i) of the HERS Regulations and their failure will be noted on the registry.
- Raters should notify CalCERTS, in writing and prior to registration, if there is a problem with a field verification and diagnostic testing or home energy rating, so that the problem can be documented and taken into account during QA review.
- Raters will be responsible for the costs of additional quality assurance reviews conducted pursuant to section 1673(i) of the HERS Regulations.

- Raters may, at any time, contact CalCERTS to ask questions about the quality assurance review process or to ask for technical support to ensure that the Rater is meeting the criteria for truth, accuracy and completeness, set forth in the HERS Regulations.

CalCERTS Director of Quality Assurance

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Complaint Response

- Raters must provide the Homeowner on Alterations, and the Builder (or builder’s representative) or Homeowner on New Construction, with a standardized written notice, provided by CalCERTS, notifying them they can file a complaint with CalCERTS related to the Rater’s ratings and/or field verification and diagnostic testing services.
- CalCERTS will respond to and resolve all legitimate and/or verifiable complaints related to ratings and/or field verification and diagnostic testing services performed by a CalCERTS certified Rater.
- CalCERTS will document and retain records of all complaints received, and its response to complaints, for a minimum of five years. This information will be shared with the Energy Commission and may be used in any investigation of Rater misconduct.
- Raters will be notified of complaints issued against them only if CalCERTS determines that there is sufficient evidence to warrant an investigation into the Rater’s conduct and/or performance.
- CalCERTS may protect the privacy of persons who file a complaint against a Rater by withholding the name of the complainants if CalCERTS has independently verified the information provided by the complainants.

Investigations

- CalCERTS may, at its sole discretion, conduct an investigation of a Rater’s conduct and/or performance whether due to complaints received from third parties, quality assurance reviews, or otherwise.
- Rater shall be given a written Notice of Investigation, within a reasonable period of its commencement, stating the basis of the investigation.

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- CalCERTS may temporarily suspend a Rater’s Certification during an investigation when further activity by the Rater could interfere with CalCERTS’ investigation or continued ratings might jeopardize a consumer’s rights to true, accurate and complete Ratings. Raters will be given a written Notice of Suspension. CalCERTS will work diligently to minimize the duration of any suspension.
- As part of its investigation, CalCERTS may conduct additional quality assurance field reviews of the Rater in addition to the minimum number otherwise required under the HERS Regulations. Investigations may also include data audits, interviews, and/or any other review of the Rater’s conduct and performance that is necessary to resolve the issue being investigated.
- Rater shall be given an opportunity to ask questions about the investigation, and shall have an opportunity to submit information and documents related to the substance of the investigation before CalCERTS concludes the investigation. Rater will be encouraged to submit all questions in writing to avoid confusion and ensure accuracy.
- Raters are required to cooperate with the investigation to help ascertain facts and to gain access to important parties. If a Rater fails to cooperate with an investigation, CalCERTS may terminate the investigation and decertify the Rater.
- CalCERTS will review all information gathered in an investigation including information submitted by the Rater to determine if disciplinary action is warranted. If CalCERTS determines that disciplinary action is warranted the Rater shall receive a written notice of CalCERTS’ findings and recommended disciplinary actions.
- Rater shall have 30 days to appeal the recommendation prior to final disposition. Appeals must be submitted in writing.
- All investigations are considered confidential to protect all parties involved. Release of any details is at the sole discretion of CalCERTS

Disciplinary Action & Decertifications

- CalCERTS may at its sole discretion impose one or more of the following types of Rater discipline:
 - A formal written warning to the Rater detailing area(s) of concern and suggesting self-directed corrective actions. For example, CalCERTS may recommend that the Rater attend additional training or receive mentoring.
 - Imposition of additional field reviews at the Rater’s expense.
 - Imposition of additional education, mentoring or training at the Raters expense.
 - Suspension of the Rater’s Certification for a period not to exceed two years.
 - Decertification.
- CalCERTS will document and retain records of all disciplinary action, and will provide this information to the Energy Commission as required by Title 20.
- CalCERTS may publish notifications of Rater discipline on the CalCERTS website.