

**DOCKETED**

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# Investigation Report Number 2-02

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## Standards Compliance Branch Investigation Report

### Investigation Information

Investigator: Matthew Haro

Subject(s) of Investigation (Rater, Provider, Other): Providers, Raters, Field Verification and Diagnostic Testing (FV&DT) Program

Type of Service Offered by Subject of Investigation: FV&DT Services

### Facts Investigated

Staff initiated an investigation regarding a Home Energy Rating System (HERS) provider operations as part of its regulatory activities and upon observing deficiencies in program performance, in order to identify ways to improve the program. Staff investigated matters regarding Provider quality assurance practices.

### Findings of Fact:

#### FV&DT Provider Discipline

- Staff has observed HERS providers resisting to provide requested information.

#### Annual Quality Assurance Reviews.

- Staff has observed a lack of consistency in providers' quality assurance practices. The California Energy Commission (CEC) found "... an unrefined, informal, and seemingly improvised discipline and decertification process. It seems the process lacks features such as published written procedures and full and complete discipline - related notices. These deficiencies - as well [as] more general matters involving [HERS] Provider - Rater relations - warrant broader Commission inquiry." (see Documents Reviewed, bullet 4)

#### Rater Employing Companies

- Staff has observed that rater employing companies have become commonplace organizations that offer FV&DT services and employ raters.

#### Complaint Response System

- The requirements for the contents of the complaint system annual reports is no more specific than to summarize all complaints and actions taken.

#### CEC Access to Provider Databases

- The existing HERS regulations do not define "ongoing access" and do not specify the minimum access requirements. Staff has observed inconsistencies in the provider

databases. For example, one Provider’s database includes twice as many filters as the other and returns five times as many results per search (each “result” represents a project for this Provider, while the other Provider’s database returns forms).

#### Provider QA Program Deficiencies

- The HERS regulations require a HERS provider to create and implement a quality assurance (QA) program. The regulations state “For each Rater, the Provider shall annually evaluate the greater of one rating, randomly selected or one percent of the Rater’s past 12 month’s total number of ratings (rounded up to the nearest whole number for each measure tested by the Rater.” Providers describe their QA programs in the Provider Applications.
  - CalCERTS performed 1598 QA of the 6728 required evaluations in 2019.
  - CHEERS performed 676 of the required 4466 measures in 2019.

#### Failure to Train Raters

- After CEC investigation, a complaint revealed that a FV&DT rater had been conducting field verifications for at least a year without a required certification (see Appendix A).

#### Failure of Providers to Oversee Raters

- Approximately 90 percent of raters each performed fewer than 2000 tests in the year 2019, while this rater performed over 12,000 tests.
- Of the 90 percent of raters, 60 percent performed fewer than 500 tests per year, this particular rater was found to perform in a month roughly three times more work than most raters do in a year.
- This rater registered across both Providers’ registries, and neither Provider addressed this anomaly.

### **Documents Reviewed and Submitted by Investigator:**

- Title 20, section 1673
- HERS Provider Registry Data
- Appendix A: Documents related to Rater Complaint
- See p. 14-15 of the June 22, 2012, “[Proposed] Decision Dismissing with Prejudice the Pending Complaint and Investigation Proceedings Against CalCERTS, Inc.” Accessed May 4, 2021:  
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=66192&DocumentContentId=1835>.

### **Summary of CEC's Investigation steps taken:**

Date	Staff	Investigatory action taken
2021	CEC Staff	Staff recorded issues as they were observed, through staff’s implementation of the regulations and program oversight, and compiled them into this report.

**Steps taken by CEC as a result of findings:**

As a result of the findings stated herein, CEC staff recommend amendments to the existing HERS program requirements through a rulemaking. On May 12, 2022, the CEC adopted an Order Instituting Rulemaking Proceeding.

**Was this report provided to complainant (Yes/No)?:**

No.

**Report prepared by:**

Name: Maxwell Crosby

Title: Associate Energy Specialist (TED)

Date: 10/07/2022

# APPENDIX A

## Email Discussion

[REDACTED]

[REDACTED]  
From: [REDACTED]  
To: [REDACTED]  
Subject: [REDACTED]  
Date: Tuesday, April 13, 2021 5:26:18 PM

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

[REDACTED]

I wanted to mention something pretty serious that I think should be discussed. Recently a inspector reached out to us about a position. He's been inspecting as a hers rater for over a year with [REDACTED]

He informed me he wasn't EPA licensed though and would need to complete that. It irked me because if he's run thousands of inspections. He has been unlicensed and unqualified to perform these inspections.

I would appreciate being anonymous. [REDACTED]

His name is [REDACTED] and his phone number is [REDACTED]

Please let me know if this goes anywhere. I have heard a lot of problems with this inspection company and I'm concerned.

Thanks, [REDACTED]

[REDACTED]

From: [REDACTED]  
To: [REDACTED]  
Cc: [REDACTED]  
Subject: [REDACTED]  
Date: [REDACTED]  
Attachments: jmspe004.png

Thank you [REDACTED]. The certification number shows that this rater was certified on 3/27/2021. Is there any other certification information that you have on this rater that confirms certification prior to 3/27/2021? Based on information shown in the registry, the rater has been conducting field verifications well before this date.

[REDACTED]

From: [REDACTED]  
Sent: Monday, April 19, 2021 2:09 PM  
To: [REDACTED]  
Cc: [REDACTED]  
Subject: RE: EPA 608 Certification - HERS Manager

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

The card for his EPA 608 certification is attached.

From: [REDACTED]  
Sent: Wednesday, April 14, 2021 1:59 PM  
To: [REDACTED]  
Cc: [REDACTED]  
Subject: [REDACTED]

Hi [REDACTED]

We are looking into a complaint against a HERS rater claiming that the rater is not EPA 608 certified. Can you please provide the EPA 608 certification card and/or EPA 608 certification number and EPA approved certifying organization so that we can confirm? Below is the rater information.

[REDACTED]