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CalCERTS Comments on Revised Draft Staff Report - Proposed Regulations: Part Five

On July 12, 2023, CalCERTS, Inc. (CalCERTS) was able to meet with California Energy Commission Staff and other approved HERS Providers to discuss the Revised Draft Staff Report (TN#250298). In response to that meeting CalCERTS has been working to provide specific feedback to Commission Staff in response to direct questions. This section, Part Five, is focused on Provider Discipline.

The Revised Draft Staff Report focuses primarily on quality assurance when drafting the progressive discipline provisions relative to HERS Providers. Within the proposed regulations, progressive discipline needs to address instances where Providers intentionally facilitate false data registration. This is a key point in the draft report that is unaddressed. Data Registries that do not adhere to the Building Energy Efficiency Standards, the Joint Appendices, the DRRM, and/or the pseudo code need **codified** corrective measures to incentivize compliance.¹ The rules as drafted need to provide Commission Staff more tools beyond notice of violation and probation, before moving to suspension.

CalCERTS recommends that when a Provider is identified to have failed to comply with the Data Registry Requirements that the Provider have the following codified corrective measures:

- Mandated reporting to the Commission on the scope of registrations effected.
- Documented corrective coding and compliance.

¹ Suspension of a Registry is equivalent to shutting down a Provider and a serious and severe penalty that should be used judiciously. The Standards Compliance Branch needs tools to address unethical behavior by Providers disguised as mistakes, that can effectively address data issues and incentivize compliance, without putting projects in jeopardy or effectively putting Providers out business for what could be an errors or misunderstandings.

- Reasonable monitoring and prospective reporting to the Commission to prove future compliance, proportionate to the scope of the error.
- Clear, official direction to all Providers from the Commission on any corrective requirements.
- Appeal opportunities.

Sincerely,

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