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June 19, 2024

Via CEC Docket 24-BSTD-01

Commissioner Andrew McAllister
California Energy Commission
1516 Ninth Street, MS-39
Sacramento, CA 95814

RE: CalCERTS Comments on 15-Day Language for 2025 BEES

CalCERTS is grateful for our ongoing collaboration with the California Energy Commission (CEC) on the 2025 Building Energy Efficiency Standards. CalCERTS comments are primarily for clarification on the proposed language in section 10-103.3.

10-103.3(d)5B

- B. **Exemplary ECC-Rater.** An ECC-Rater is designated as a “Exemplary ECC-Rater” once the ECC-Rater has been (1) continuously certified as an ECC-Rater for a minimum of five years and (2) confirmed for designation by the applicable ECC-Provider after passing all required quality assurance audits within a 12-month period, including at least one annual qualityinsulation installation (QII) shadow audit, ~~one non-QII shadow audit, one in-lab audit,~~ and one desk audit.

CalCERTS recommends: Striking “~~one non QII shadow audit, one in-lab audit~~”. This was intended to be removed from the code language per previous discussions.

10-103.3(d)5C

- C. **Types of Quality Assurance Review.** Quality Assurance Review shall take the form of onsite, shadow, and desk audits.
- i. **Onsite Audits.** The ECC-Provider performs an onsite audit following field verification and diagnostic testing by an ECC-Rater it certified. Onsite Audits are performed at the invitation of the homeowner

through the complaint process, at the request of the Commission, or at the discretion of the ECC-Provider. Every year, at least one onsite audit shall be performed by the ECC-Provider for each ECC-Rater it has certified either at random or as directed above. For Exemplary ECC-Raters the minimum onsite audit frequency shall be reduced from once per year to once per Triennial Code Cycle. ~~Additionally, Onsite Audits shall be performed for every 100 dwelling units or single family residences (or both in combination) in a single development constructed by a single developer that make use of the sample-group provisions (Building Energy Efficiency Standards Reference Appendix RA 2.6) seventh sample group used in a single residential development.~~ The audit results shall be included in the annual reporting to the Commission (Section 10-103.3(d)11E) or provided in response to a request by the Commission. Onsite Audits shall comply with the following:

CalCERTS recommends: Striking “Additionally, Onsite Audits shall be performed for every 100 dwelling units or single family residences (or both in combination) in a single development constructed by a single developer that make use of the sample-group provisions (Building Energy Efficiency Standards Reference Appendix RA 2.6)”

This language already appropriately exists in **10-103.3(d)5Cf**, and can cause confusion duplicated here.

10-103.3(d)5Ce

- e. Onsite Audits shall be performed when an ECC-Provider is investigating a complaint from a homeowner about a field verification and diagnostic test, ~~except when the installation has substantially changed since the original ECC inspection.~~

CalCERTS recommends: Adding the language “except when the installation has substantially changed since the original ECC inspection.” There are many examples where the installation has been altered by a contractor, homeowner, or other party after the original ECC inspection and the original inspection results can no longer be audited. Also, it is documented that complaints are sometimes submitted to Providers many years after an ECC inspection. It would be both wasteful and problematic to inspect a home

that has substantially changed since the original inspection. This language helps prevent wasteful and unproductive audits.

10-103.3(d)5Cf

- f. Onsite Audits shall be performed for every 100 dwelling units or single family residences (or both in combination) in a single development constructed by a single developer that make use of the sample-group provisions (Building Energy Efficiency Standards Reference Appendix RA 2.6) **beginning with the 100th dwelling unit or single family residence**. ~~seventh sample group used in a single residential development.~~ Nothing in this provision shall require that any dwelling unit in any sample-group remain open beyond the requirements in Building Energy Efficiency Standards Reference Appendix RA 2.6. These Onsite Audits shall comply with the following:

CalCERTS recommends: Adding the language “**beginning with the 100th dwelling unit or single family residence**”. As the language is currently written in the 15-Day Express Terms, it would require Providers to conduct 2% Onsite Audits on every development in the state that utilizes sampling. The number of Onsite Audits required might likely number in the thousands and would greatly increase the overall cost of the ECC/HERS program. We don’t believe this is the intent of the CEC as the 15-Day language was re-written to address the unfeasibility of conducting Onsite Audits on every seventh sample group.

Adding CalCERTS proposed language of “**beginning with the 100th dwelling unit or single family residence**” would still result in a significant increase of Onsite Audits from the existing requirements; however, this edit would provide additional clarity for this mandate.

Overall, it is clear that the Commission is not prepared to understand the impact of this new mandate on the Providers or the Builders. The changes to this section over this rulemaking indicate the Commission is guessing at what it wants to accomplish, at great expense to the program. This mandate should be better reviewed and understood *before being adopted*, and carefully drafted for the *next code cycle*, rather than guessing at this juncture. As the Commission is aware, changes to sampling on the national marketplace are significant, as it is being eliminated. It is impossible to predict the impacts in California and to overall project costs. The revisions in the 15-day language, although attempting to be collaborative and conciliatory, are still deeply problematic.

10-103.3(d)7Aii

- A. **Step 1: Notice of Violation.** Upon identification of one or more violations of these regulations by an ECC-Rater, the ECC-Provider shall issue a notice of violation to the ECC-Rater, and any ECC-Rater Companies for which the ECC-Rater performs FV&DT services. The ECC-Rater Company or Independent Rater shall notify the affected homeowner and show proof of such notice to the ECC-Provider. Within three (3) months of issuance of the Notice of Violation, the ECC-Provider will perform a Desk Audit (Section 10-103.3(d)5Civ) on the ECC-Rater.
- i. The ECC-Provider shall require the ECC-Rater take additional training or other corrective action related to the violations within a specified timeframe.
 - ii. The ECC-Provider shall inform the ECC-Rater of their responsibilities for the following: the ECC-Rater shall be responsible for the costs of quality assurance testing and additional training for the violations, **and the ECC-Rater shall be responsible for the costs to the property owner for the original field verification and diagnostic test and any necessary retesting because of the violations.** The ECC-Provider shall not be responsible for any costs related to flawed field verification and diagnostic test as performed by the ECC-Rater.

CalCERTS requests clarification on bolded language: In section 10-103.3(d)5Diii, the language states that the Remedy for a Flawed Field Verification and Diagnostic test is that the Rater or Rater Company is responsible for providing an additional field verification and diagnostic test to the hiring party that corrects the untrue or inaccurate reporting.

Later in 10-103.3(d)7Aii, the disciplinary language states that in addition to providing necessary retesting, the Rater must also “**be responsible for the costs to the property owner for the original field verification and diagnostic test and any necessary retesting because of the violations.**”

Is this additional language intentional or meant to be struck from the code? Is the Rater responsible for the costs as the remedy, or a corrective FVDT as the remedy? It would be inappropriate to require both.

As written implies they must refund the costs to the homeowner and conduct additional inspections. This would be a windfall to any homeowner and could open the floodgates to folks

seeking free inspections by gaming this code language and harassing ECC Raters for ministerial errors.

In 10-103.3(d)7 states “In the event of a severe violation, however, the ECC-Provider shall proceed immediately to the suspension step for the first severe violation”. This suggests the Notice of Violation is for non-severe violations. The remedy needs to be reasonable. Please clarify.

Thank you for your consideration,

That CalCERTS Team



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