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To: California Energy Resources Conservation and Development Commission

Re: Informational Proceeding for the California Home Energy Rating System -
Docket No. 12-HERS-1

CalCERTS, Inc. (CalCERTS), offers the following comments to Docket Number 12-HERS-1 to supplement information provided to the California Energy Resources Conservation and Development Commission (Commission) through this OII process. Although CalCERTS has previously provided comments to this Docket, much has changed within California's Home Energy Rating System (HERS) industry since the Commission initiated this OII in 2012 and since execution of the 2013 Title 24, Building Energy Efficiency Standards.¹ As a HERS Provider, CalCERTS has seen the HERS industry evolve. It is important that any revision to the HERS Regulations promote improvements to the program while protecting the fundamental purpose of HERS.

The HERS Regulations, codified within Title 20 of the California Code of Regulations, Chapter 4, Article, 8, Sections 1670-1675, require HERS Providers to conduct quality assurance (QA) on HERS Raters. The purpose of the QA requirement is found within the California Public Resources Code section 25942, which requires the HERS program to have QA to "to promote accurate ratings and to protect consumers." Any change to the QA requirement within the HERS Regulations must align with the purpose of the requirement. It is with this focus that CalCERTS addresses the following issues:

- HERS Raters *must* be included in the QA process to promote accurate ratings.
- The Commission should provide guidelines on QA to support the intent of the requirements.
- The QA requirement must be modified to allow Providers to comply with the HERS Regulations.

¹ This past year was the first full calendar year that the 2013 Title 24, Building Energy Efficiency Standards were operative. Upon review of CalCERTS' 2015 year-end reports and analysis, CalCERTS tracked QA trends and rating information that should be considered as part of this OII. CalCERTS is offering these comments now with the intent of helping inform the pending rulemaking and to best serve the HERS Program and California's ratepayers.

RATERS MUST BE INCLUDED IN THE QA PROCESS

As the HERS industry has evolved, HERS Raters have become California's Title 24 HERS compliance experts. With each Title 24 code change, HERS Raters are required to learn the new compliance rules and must be certified or recertified by an approved Provider. Through our experience, we have found that HERS Raters are the ones educating California's builders, contractors and installers on the changes to the standards. Each day we work with CalCERTS Raters who contact our *Field Support Team*² for guidance to work through their compliance questions. Raters are an integral part of educating contractors and installers on the HERS efficiency standards. It is because of this real-world activity of HERS Raters that Raters must be included in the QA process.

More importantly, and in direct response to the concerns raised during the Complaint Against and Request for Investigation of CalCERTS, Inc. Docket #12-CAI-01 ("Complaint Against CalCERTS") Raters must be invited to participate in the evaluation of their work. Raters need an opportunity to address their QA results with respect to the accuracy of their ratings and to any disciplinary process. To facilitate this process, Providers should be required to share the results of a Rater's QA review with the Rater.

Presently, CalCERTS provides each Rater a written disposition of the QA field reviews performed on the Rater's work. Each disposition includes the results of the QA review which evaluate the Rater's work for truth, accuracy, and completeness.³ The process of providing a written disposition is different than what CalCERTS had in place prior to the Complaint Against CalCERTS, and at the start of this OIL.⁴ CalCERTS has found that by providing written dispositions to its Raters, the Raters have been able to improve the accuracy of their ratings. Requiring Providers to inform Raters of their QA results will directly support the intent of the QA requirement.

CalCERTS requests the following language to be included into section 1673(i)(3) of the HERS Regulations:

"Providers shall make available to the Raters the results of any quality assurance review performed on the Rater."

CalCERTS also proposes a change to section 1673(i)(3)(C) of the HERS Regulations. QA reviews on ratings completed before a Rater is informed of a QA failure do not effectuate the intent of the QA requirement and cannot be used to decertify a Rater because the Rater has not been given an opportunity to improve.⁵ Any QA required by section 1673(i)(3)(C) should be on future ratings, not on ratings from the prior year. Non-routine⁶ QA reviews should be conducted only after a Rater has been given notice of the deficiency and an opportunity to correct their

² CalCERTS provides field support services for CalCERTS Raters. Raters are encouraged to contact CalCERTS' Field Support Team if they have questions on how to conduct a rating or the Building Energy Efficiency Standards.

³ CalCERTS also provides the QA results to the Rater's employer if an employer is designated.

⁴ Prior to 2013, CalCERTS provided QA results to Raters only when a discrepancy was found. Since then, CalCERTS has been providing written dispositions to Raters for all QA reviews.

⁵ Retrospective reviews can only confirm a deficiency; however, the review cannot support decertification because the Rater has not yet been allowed the opportunity to address the deficiency.

⁶ CalCERTS considers "Routine QA" those reviews required by section 1673(i)(3)(A) of the HERS Regulations for all Raters. Non-Routine QA, are the additional reviews required by section 1673(i)(3)(C), once a QA failure has been determined.

work. QA reviews on prospective ratings allow Providers to track the Rater's willingness to improve and offers the Rater a chance to avoid future punitive reviews. The following change to 1673(i)(3)(C) is proposed to better effectuate the intent of the QA requirement within the HERS Regulations.

“These evaluations by the Provider's Quality Assurance personnel shall be documented in the Provider's database and include the results of all testing performed by the Provider's Quality Assurance personnel. If the Provider's Quality Assurance personnel determine that the Rater's results did not meet the criteria for truth, accuracy, or completeness of these regulations, then the Provider shall report the quality assurance failure on the Provider's Rater registry and Building Performance Contractor registry websites for a period of six months. In addition, the Provider's Quality Assurance personnel shall evaluate two additional ratings of the failed measure by the same Rater performed ~~in the past 12 months~~ within the next six months.”

CalCERTS, also proposes a change to the 2% requirement under 1673(i)(3)(C). This requirement neither promotes accurate rating nor protects the consumer. Rather, the requirement is simply punitive to Raters who must absorb the costs of non-routine QA reviews. CalCERTS proposes the following change to 1673(i)(3)(C) to better effectuate the intent of the QA requirement by encouraging Raters to promptly address any QA deficiency.

“These evaluations by the Provider's Quality Assurance personnel shall be documented in the Provider's database and include the results of all testing performed by the Provider's Quality Assurance personnel. If the Provider's Quality Assurance personnel determine that the Rater's results did not meet the criteria for truth, accuracy, or completeness of these regulations, then the Provider shall report the quality assurance failure on the Provider's Rater registry and Building Performance Contractor registry websites for a period of six months. In addition, the Provider's Quality Assurance personnel shall evaluate two additional ratings of the failed measure by the same Rater performed ~~in the past 12 months~~ within the next six months. If a second deficiency is found on the same measure, then the Rater shall have two additional quality assurance reviews of the failed measure performed within the next six months ~~two percent (rounded up to the nearest whole number) of his ratings of the failed measure evaluated for the next 12 months~~ by all Providers. The Provider's Quality Assurance Manager shall notify the Energy Commission and all other Providers in writing or by electronic mail of Raters that are required to have additional quality assurance verification as required by this provision.”

The proposed change to amend the current 2% requirement to an accumulative +2, better supports the intent of the QA requirement without reducing the Provider's obligation to address QA failures. The proposed change to section 1673(i)(3)(C) creates an incentive for Raters to quickly improve their ratings to avoid additional QA.

GUIDELINES FOR QUALITY ASSURANCE

The HERS Regulations do not detail the process for conducting QA reviews. HERS Providers have been required to develop QA programs on their own, with little published guidance from the Commission. To support the intent of the QA requirement and to help standardize the necessary QA process for *all* HERS Providers, CalCERTS requests the Commission to publish guidance outlining what the QA process should entail. This document should not be codified; but, rather, serve as guidelines to HERS Providers and Raters on the process necessary to promote HERS and protect consumers.⁷

In April 2015, CalCERTS provided an overview of its QA program in its comments to this docket (*See* April 10, 2015 Comments to 12-HERS-01). QA costs that were highlighted in that letter included, but are not limited to, the requirement to monitor ratings on a per-Rater, per-measure, per-year, basis, and the costs associated with maintaining highly skilled QA staff and schedulers throughout the state of California.⁸ CalCERTS also provided the Commission a copy of its *QA Field Review Checklist*. This detailed checklist, which has been developed over several years, reflects CalCERTS' current QA field review process and includes items that are important to Raters, homeowners, contractors, and the Commission. CalCERTS hopes that the Commission will seek information from *all* Providers and that it will publish guidance on what that QA process should entail.

MODIFIED QA REQUIREMENTS WILL PROMOTE COMPLIANCE

In compliance with the HERS Regulations, CalCERTS carefully tracks the ratings and measures verified through its Registry in order to schedule the required QA field reviews. Throughout this OII and in accordance with the requirements specific to HERS Providers, CalCERTS has consistently demonstrated that the QA quota is impracticable given the separate and disassociated requirements under the HERS Regulations. The quota is quantitative rather than qualitative.

CalCERTS encourages the Commission to adopt a QA requirement that can be met by HERS Providers in a way that is both flexible and comprehensive while limiting the financial impact on the consumer. Whereas QA is intended to protect consumers, the costs of QA is also ultimately passed on to the consumer.⁹ Furthermore, homeowners must grant Providers access to their homes so that QA reviews may be conducted, which is an added inconvenience to the

⁷ As the HERS industry continues to evolve it is certain that the QA process will need to evolve with it. By providing guidelines, rather than codified regulations, the Commission will safeguard the flexibility needed to incorporate new technologies and cost saving measures into the HERS program, while also addressing the important issues identified through this OII. For example, the Commission needs to provide guidance on how to perform QA on Quality Insulation Installation for new construction projects. Logistically, it is very difficult to schedule QA at the early stages of QII because the window of opportunity between the time the HERS verification is performed and the sheetrock is installed is very narrow and does not allow for the QA to be scheduled and completed.

⁸ Importantly, with adoption of the 2013 Title 24, Building Energy Efficiency Standards, CalCERTS' QA program expanded to address additional measures required under the code and to reach the previously exempt climate zones.

⁹ CalCERTS has worked with its Raters to address the cost of QA reviews. In direct response to Rater feedback, routine QA costs, reviews required by §1673(i)(3)(A), are incorporated into certificate fees. Non-routine QA costs (see footnote 5) required by §1673(i)(3)(C), are invoiced to the Rater or rating company.

homeowner.¹⁰ Through this OII, it is important for the Commission to consider revising the QA quota so that the HERS Regulations can be fully enforced.

CalCERTS offers the following two proposals to replace the QA requirements within section 1673(i)(3)(A) of the HERS Regulations. The first proposal requires the Provider to perform a QA review on all Raters to ensure accuracy, but accounts for the difficulty of scheduling reviews to track specific measures. For example, a Rater may conduct 80 ratings within a year, with only one of those ratings including a specific measure. To ensure that all measures are reviewed proportionately, the Provider is required to review 1% of all measures processed through its registry.

“For each Rater, the Provider shall annually evaluate at least one rating, randomly selected of the Rater’s past 12 month’s total number of ratings. The Provider shall independently perform the rating to determine if the Rater’s recorded information was accurate and complete. The Provider shall on an ongoing basis, conduct quality assurance reviews on one percent of all verified measures conducted through the Provider, selected randomly from the Provider’s entire pool of ratings.”

The second proposal requires the Provider to review each Rater on each measure. This proposal does not address the feasibility of reviewing measures, especially for low volume Raters. However, this proposal more closely matches the existing regulations. Similar to the first proposal, the Provider is required to review 1% of measures verified through its registry.

“For each Rater, the Provider shall annually evaluate at least one rating for each measure tested, randomly selected of the Rater’s past 12 month’s total number of ratings. The Provider shall independently perform the rating to determine if the Rater’s recorded information was accurate and complete. The Provider shall on an ongoing basis, conduct quality assurance reviews on one percent of all verified measures conducted through the Provider, selected randomly from the Provider’s entire pool of ratings.”

These two proposals effectuate the intent of the regulations by requiring annual reviews of each certified Rater while also requiring proportional QA on the types of verifications being completed by Raters. CalCERTS offers these proposal for discussion purposes and looks forward to contributing to the pending ruling making by providing input on the practical implications of any proposed rule.¹¹

Also for consideration, CalCERTS offers the following proposal for Section 1673(i)(4) of the HERS Regulations which establishes “Additional Quality Assurance for Unrated or Untested Buildings or Installations.”¹² CalCERTS proposes the following change to section 1673(i)(4)(A), to promote compliance with this regulation.¹³

¹⁰ Given the additive nature of QA in the current HERS regulations, CalCERTS would need to review approximately 1 in 30 home ratings processed through the Registry.

¹¹ CalCERTS anticipates providing further comments to address proposals related to Third Party Quality Control Program.

¹² It is unclear how QA on this category of buildings and installations promote accurate ratings or protect consumers. However, information gathered by the Commission on the untested facilities may inform policy decisions.

¹³ To date, CalCERTS has provided its QA results for reviews conducted under section 1673(i)(4) directly to the Commission. Raters have not received QA results for untested buildings or installations.

“For houses or installations passed as part of a sampling group but not specifically field verified or rated by a Rater, the Provider shall on an ongoing basis, conduct quality assurance reviews on one-quarter of one percent of all unrated or untested buildings or installations in groups sampled through the Provider, selected randomly from the Provider’s entire pool of sampled ratings.”

CONCLUSION

As the Commission proceeds through the OII, CalCERTS encourages the Commission to work closely with its HERS Providers and Raters to ensure that any change to the regulations promote the intent and purpose of the regulations. CalCERTS is dedicated to working with the Commission to ensure that the HERS Program continues to provide true cost-savings and energy efficiency for the people of California.

Respectfully Submitted,



Michael E. Bachand
Chief Executive Officer



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Chief Operating Officer