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ECC Program Requirements – Further Request for Clarification

On May 13, 2025, CHEERS requested formal clarification from the CEC on the scope of Provider approvals under the Energy Code Compliance (ECC) Program. (TN 263079)

CHEERS submits this Further Request for Clarification encouraged by CEC Staff citing to the rulemaking record.¹ Energy consultants, designers, architects, compliance software developers, and Rater Companies, among others, share an interest in this request, which clarifies the scope of residential Field Verification and Diagnostic Testing. (FVDT)

Key documents referenced include:²

- 2025 Update of the Field Verification and Diagnostic Testing Requirement - Publication Number CEC-400-2023-011 (“[Staff Report](#)”)
- Initial Statement of Reasons for the proposed changes to the 2025 Building Energy Efficiency Standards – TN-255315-4 -- March 28, 2024 (“[Initial Statement of Reasons](#)”)
- Final Statement of Reasons for the proposed changes to the 2025 Energy Code, Title 24, *Parts 1 and 6* – TN-261210 -- January 22, 2025. (“[Final Statement of Reasons](#)”)

¹ In May 2022, the CEC initiated a formal rulemaking to address FVDT requirements for residential construction ([Order No. 22-0511](#)). This rulemaking was comprehensive, informed by numerous stakeholder meetings and public input. During these meetings, CEC Staff and Commissioners highlighted the economic growth potential of the FVDT market. Most recently, at the May 8, 2025, Business Meeting, Commissioner Andrew McAllister emphasized the important role of FVDT in supporting heat pump changeouts—an essential strategy for achieving greater energy efficiency and reducing carbon emissions.

² The CEC hosts a website related to the FVDT rulemaking.

<https://www.energy.ca.gov/proceeding/modifications-field-verification-and-diagnostic-testing-program-requirements>. See Docket [24-BSTD-01](#) to access the Staff Report and the Statements of Reasons

Application Requirements

CHEERS requests written confirmation from the CEC that only the three application types identified in the ECC Program will be considered for approval. This interpretation is consistent with the program scope established during the rulemaking process.

Within the Statements of Reasons supporting the redesign of FVDT, the CEC made clear that the objective was to clarify the scope of the program.

Initial Statement of Reasons – ECC Program (*establishing*)

Section: 10-103.3(a)

Specific Purpose: The purpose of this addition is to establish the scope of the Energy Code Compliance (ECC) program as it applies to ECC-Providers, ECC-Raters, and ECC-Rater Companies within Title 24 of the Energy Code. As the primary regulated entities within the FV&DT, the entities must be specifically mentioned, and roles distinguished to properly regulate the conduct and expectations of each within Title 24 of the Energy Code.³

The work to delineate the scope of FVDT happened throughout the rulemaking.

Final Statement of Reasons – ECC Program (*clarifying*)

Section 10-103.3(a)

Purpose: The specific purpose of adding three [sic] instances of “residential” is to clarify that the scope of the Energy Code Compliance program is limited to residential construction only.⁴

Necessity: The revision is necessary to clarify that the ECC program is limited to residential construction and does not include nonresidential construction or the use of nonresidential programs such as the Acceptance Test Technician Certification Provider program. The proposed change is reasonably necessary to ensure and improve the general clarity and internal consistency of the Energy Code.

³ Within the Initial Statement of Reason for 10-103.3(a) CEC states: Necessity: This addition is necessary to encapsulate the ECC program within the Energy Code to better manage issues and address necessary changes to code on a triennial basis. Previous regulations did not include rater companies as a regulated entity, rater companies have emerged as an important party in the FV&DT program and, therefore should be included in updated regulations. Frequent stakeholder engagement and changing building energy efficiency requirements have direct bearing on the FV&DT program, therefore regular updates within the triennial Energy Code updates would ensure the FV&DT program is up to date with current regulations while responding to stakeholder concerns on how best to implement the program. A robust and up to date ECC Program is necessary to accurately determine building energy efficiency standard compliance so that wasteful energy consumption is reduced, as directed by PRC 25402.

⁴ CEC delineates scope relative to residential, nonresidential, and other compliance programs, such as ATTCP. Any further delineation is not supported in the rulemaking file.

Within the ECC Program rules for Provider applications, the CEC explicitly identifies three different types of applications:

Initial Statement of Reasons - Provider Approval

Section: 10-103.3(c)

Specific Purpose: The purpose of this addition is to describe the review process and requirements for an ECC-Provider application.

Necessity: This addition is necessary to provide a basis for various types of ECC-Provider applications as well as the review and potential approval processes. A well-understood ECC Program is necessary to encourage widespread program adoption and accurately determine building energy efficiency standard compliance so that wasteful energy consumption is reduced, as directed by PRC 25402.

Section: 10-103.3(c)1

Specific Purpose: The purpose of this addition is to list the types of ECC-Provider applications that the CEC will review and consider for approval.

Necessity: This addition is necessary to outline not only the types of ECC-Provider applications but also the CEC's review and potential approval process. Providers are given the benefit of what to expect if they seek certification and recertification. A well-understood ECC Program is necessary to encourage widespread program adoption and accurately determine building energy efficiency standard compliance so that wasteful energy consumption is reduced, as directed by PRC 25402. (emphasis added)

The types of Providers applicants identified in the ECC Program include:

- Full Application Providers 10-103.3(c)3
- Triennial Reapproval Providers 10-103.3(c)4
- Application for Remediation 10-103.3(c)5

This appears to be straightforward and supported by the rulemaking.⁵

⁵ For purposes of review under California Government Code §11340.5; there is significantly more information in the rulemaking file to support the Commission's intent when creating the Energy Code Compliance Program, within the 2025 Building Energy Efficiency Standards at 10-103.3, which focused on better management and administration of the FVDT requirements for residential construction. There are stakeholder comments and responses, workshop transcripts, and other draft staff reports that support the code as adopted, and the three application types identified.

Within the **Staff Report** that supports the FVDT rulemaking, different types of Providers, from the prior HERS Program, with different applications, were analyzed. The CEC did not incorporate those application variations into the ECC Program.⁶

Staff Report at pages 30-31.

“Provider Applications

The regulations do not provide any guidance on the types of applications for which providers can be certified. The regulations also do not state that a provider must be certified for all certification categories. This impacts the training available for raters and can have a deleterious impact on the program in general if builders cannot find certified raters for the services that they need. Over the history of the program, providers have been approved for conducting only parts of FV&DT services required by the Energy Code, including:

- Prescriptive HVAC alterations for residential buildings.
- Newly constructed residential buildings.
- Newly constructed residential buildings and prescriptive HVAC alterations for residential buildings.
- Newly constructed residential and nonresidential buildings and prescriptive HVAC alterations for residential and nonresidential buildings.

A consumer who is looking to hire a HERS rater might be confused when a HERS provider not certified for all FV&DT services. This confusion could also result in having a gap in coverage of provider oversight over one or more FV&DT rating services, leaving a part of the Energy Code FV&DT services unsupported.

On the other hand, significant investment is required to develop a provider data registry and conduct the other provider functions. Under the current regulations, new providers could become established with partial approval and an expectation to expand. By staging the application, prospective providers could better align their expected income with their initial investment costs regarding the developing a data registry, other software and databases specified in Title 20, a rating system, and training for all procedures and compliance forms under the applicable Energy Code. However, these application options are far from clear in the existing regulations, and at the very least the regulations need to specifically acknowledge that there are options available.”

⁶ Energy Consultants, compliance software developers, Rater Companies specializing in performance calculations should share the concerns highlighted in the Staff Report. Allowing Providers to focus only on prescriptive forms, would leave performance-based compliance wholly unsupported or with **significantly higher** registration costs given the resources needed to service performance FVDT. The simplicity of the prescriptive program offsets the costs to support a performance-based program. This is especially true as federal programs supporting production building are eliminated.

Based on this analysis, the CEC codified three types of applications that would be accepted under the ECC program. These are identified in §§10-103.3(c)(3)-5.

However, due to a lack of consensus among CEC Staff regarding the clarity of the rules, CHEERS is requesting formal clarification. Some staff have suggested that a narrative sentence in Section 10-103(c)1 could be interpreted to allow review and approval of Provider applications with **any** scope.⁷

“All applications must include a statement of scope that indicates what services the applicant intends to provide to the marketplace.” (From code section 10-103-3(c)(1) – *statement excerpted from context.*)

Some CEC Staff have suggested that a single sentence, taken out of context, permits a Provider applicant to unilaterally define the scope of its application—for instance, by choosing to serve only one FVDT project type.⁸ However, this interpretation is not supported by the rulemaking record.

If this interpretation were correct:

- There would be no clarity on the intended scope of Provider approvals—directly contradicting the Statements of Reasons, which emphasized the need for a transparent and well-defined program.
- Providers could selectively choose which FVDT requirements to support, regardless of the ECC Program’s objectives.⁹
- Prospective applicants would have no reliable reference for determining what the ECC Program requires, making it impossible to assess the necessary investments/investors to build a compliant program.
- CEC Staff would have no clear standard for evaluating the completeness or adequacy of a Provider’s application and operations.
- The CEC’s goal of creating a “well-understood ECC Program” would be undermined. Without defined parameters for “scope,” local AHJs and Raters would be left to navigate inconsistent Provider services, increasing confusion in the field. The implications of an undefined scope were not assessed in the rulemaking.

The broad interpretation of this single sentence lacks regulatory support and erodes the very transparency and structure the ECC Program was designed to achieve.

⁷ This interpretation is not reflected in the Initial Statements of Reasons; it contradicts the reasoning.

⁸ Some CEC Staff have indicated that discretion used in administration of the HERS program should apply equally to the ECC Program, even if not adopted into regulations. CHEERS has been unable to find any administrative authority to support this premise – especially since a key purpose of the years-long rulemaking was to improve CEC oversight and transparency of the requirements.

⁹ Under this interpretation could a Provider put forth a scope that only includes QII documents and processes? Could a Provider specialize in only duct leakage? What are the limits?

The application requirements were set to establish the minimum standards.

Initial Statement of Reason - Provider Approval

Section: 10-103.3(c)3

Specific Purpose: The purpose of this addition is to describe the application requirements for a new ECC-Provider (full application).

Necessity: This addition is necessary to provide the ECC-Provider applicant **with the minimum requirements for a full application to be considered** by the CEC. A robust and up to date ECC Program is necessary to accurately determine building energy efficiency standard compliance so that wasteful energy consumption is reduced, as directed by PRC 25402.

Section: 10-103.3(c)3A

Specific Purpose: The purpose of this addition is to describe the required evidence needed to demonstrate that the ECC-Provider applicant can satisfy the application requirements.

Necessity: This addition **is necessary to set the minimum requirement to demonstrate that an ECC-Provider applicant can satisfy all the regulatory requirements in** Section 10-103.3(c)1. A robust and up to date ECC Program is necessary to accurately determine building energy efficiency standard compliance so that wasteful energy consumption is reduced, as directed by PRC 25402.

It is far more reasonable to interpret the narrative sentence as asking applicants to specify the type of application and the applicable code cycles it will serve. This interpretation aligns with the CEC's recognition of new Providers and the specific accommodations for new applicants.

Initial Statement of Reasons - Provider Approval

Section: 10-103.3(c)3Ai

Specific Purpose: The purpose of this addition is to allow a **new ECC-Provider** to demonstrate that its untested proposed processes and systems are capable of being approved by the CEC.

Necessity: This addition is necessary **because a new ECC-Provider applicant has not had the opportunity to prove its processes and system are capable of sufficient operation in the real world. The alternative pathway allows them to show they may be a viable ECC-Provider.** A reputable ECC Program is necessary to encourage widespread program adoption and accurately determine building energy efficiency standard compliance so that wasteful energy consumption is reduced, as directed by PRC 25402.



Initial Statement of Reasons - Provider Approval

Section: 10-103.3(c)3E

Specific Purpose: The purpose of this addition is to **identify which Energy Code cycle(s)** that an ECC-Provider applicant is applying to operate in.

Necessity: This addition is necessary because all ECC-Providers are limited to a specific code cycle of the Energy Code. They must reapply during each Energy code cycle to be a certified ECC-Provider. A robust and up to date ECC Program is necessary to accurately determine building energy efficiency standard compliance so that wasteful energy consumption is reduced, as directed by PRC 25402.

Section: 10-103.3(c)4B

Specific Purpose: The purpose of this addition **is to identify what past code cycles** the CEC has approved for the ECC-Provider applicant.

Necessity: This addition is necessary to reduce unneeded workload for the ECC-Provider applicant and the CEC. Identifying previously scrutinized materials could reduce duplicative review. A robust and up to date ECC Program is necessary to accurately determine building energy efficiency standard compliance so that wasteful energy consumption is reduced, as directed by PRC 25402.

It is reasonable to expect a Provider applicant to submit a statement of scope that reflects whether it is new or existing and identifies the code cycles it intends to support. What is not reasonable is the notion that an applicant could unilaterally determine which portions of the FVDT program to support—an approach that could leave entire segments of the residential code unserved.¹⁰

Importantly, the challenges faced by Providers are well recognized. To help address these challenges, the CEC adopted a provision for issuing Conditions of Approval. Section 10-103.3(c)8 authorizes staff to provide applicants with clear guidance on the steps necessary to achieve approval. This regulation benefits businesses by offering transparency around the investments and commitments required to meet all program requirements.

The regulation in part reads as follows: 10-103.3(c)(8) “As a prerequisite of approval of any ECC-Provider application, the Commission may impose Condition of Approval as the Commission deems necessary to ensure the applicant can meet the requirements of Section 10-103(c)(1) if approved...”

¹⁰ CHEERS has provided Efficiency Division leadership with data and information comparing the performance pathway for compliance, relative to prescriptive compliance. If a Provider is allowed to unilaterally determine the parts of the FVDT program it wants to support, *i.e.* the parts most economical to its business -- by defining its own scope for approval – the majority of the FVDT program could go unsupported.

Program Requirements

The ECC Program encompasses over forty pages of new regulations. Under these rules, a Provider applicant must demonstrate—by a preponderance of the evidence—that it will comply with “each” applicable requirement. (See §§10-103.3(c)A–A(1).) The CEC has provided detailed guidance throughout the regulations. For instance, in the area of training, applicants must address all aspects of FVDT. The mandatory subject areas listed in §10-103.3(d)(A)(1) explicitly cover the full scope of FVDT.

These subjects are:

- RA1: Alternative Residential Field Verification and Diagnostic Test Protocols
- RA2: Residential Verification, Testing, and Documentation Procedures
- RA3: Residential Field Verification and Diagnostic Test Protocols
- RA4: Eligibility Criteria for Energy Efficiency Measures
- NA1: Nonresidential Verification, Testing, and Documentation Procedures
- NA2: Nonresidential Field Verification and Diagnostic Test Procedures

This requirement is supported in the rulemaking and does not identify variations.

Initial Statement of Reasons- Rater Training

Section: 10-103.3(d)1A

Specific Purpose: The purpose of this addition is to establish the **minimum required training and testing curriculum for ECC-Raters** (as provided by ECC-Providers).

Necessity: This addition is necessary to ensure that every ECC-Rater receives at least the minimum required training. A robust ECC Program training curriculum is necessary to accurately determine building energy efficiency standard compliance so that wasteful energy consumption is reduced, as directed by PRC 25402.



For the Residential Data Registry requirement, in §103.3(d)(13) the Provider “must comply with all data registry requirements provided by the Building Energy Efficiency Standards, Reference Joint Appendix JA7 and Section 10-109.” The Standards and JA7, define Residential Data Registries similarly: A data registry maintained by an ECC-Provider that provides for registration when required by Part 6 of *all* residential compliance documentation. (*emphasis added*)

Initial Statement of Reasons – Data Registry Requirements

Section: 10-103.3(d)13

Specific Purpose: The purpose of this addition is to require that the ECC-Providers **comply with the data registry requirements included in the Building Efficiency standards, JA7, and Section 10-109.**

Necessity: This addition is necessary to ensure that the ECC-Provider operates a data registry. An accurate accessible long-term record incentivizes code compliance through increased accountability. Increased accountability likely will encourage more accurate ECC Ratings and building energy standard compliance, thereby reducing wasteful energy consumption, as directed by PRC 25402.

The Quality Assurance Program requirements encompass all aspects of FVDT, including shadow audits, targeted Quality Insulation Installation (QII) verifications, and provisions specific to production housing. (See §10-103.3(d)(5).)¹¹ Nothing in the regulations suggests that a Provider may omit QA requirements related to new construction by narrowing its scope of approval. To the contrary, the rulemaking’s Necessity statement makes clear that these requirements are intended to promote consistency across all Providers.

Initial Statement of Reasons – Quality Assurance

Section: 10-103.3(d)5C

Specific Purpose: The purpose of this addition is to establish three types of quality assurance audits that are to be performed by the ECC-Provider on the ECC-Rater.

Necessity: **This addition is necessary to ensure that the quality assurance procedures are consistent regardless of the ECC-Provider.** A robust and consistent quality assurance system is essential to confirm the efficacy of the ECC Program, which is necessary to accurately determine building energy efficiency standard compliance so that wasteful energy consumption is reduced, as directed by PRC 25402.

¹¹ The consumer protection provisions also require QA to address all aspects of the FVDT market, inclusive of homeowners, owner representatives, project owners, etc. See §10-103.3(b).

Conclusion

Businesses working with the CEC need reliable regulations to make informed decisions. While drafting and updating regulations is complex, the CEC intentionally moved FVDT into Title 24 to “better manage issues and address necessary changes to code on a triennial basis” (Initial Statement of Reasons, §10-103.3(a)).

However, the ECC Program regulations are neither outdated nor unclear. They were adopted in September following a multi-year public rulemaking process and expressly define three types of Provider applications in §§10-103.3(c)(3)–(5). If additional Provider types are needed, they must be added through formal rulemaking—not informal precedent.

In light of conflicting staff interpretations and inevitable staff turnover, CHEERS respectfully requests formal clarification: Will the CEC adhere to the Provider application types codified in regulation, or will staff permit other undefined variations?

Thank you.



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