

DOCKETED

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Project Title:	2022 Field Verification and Diagnostic Testing OIR Proceeding
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CEC-70 (Revised 7/22)

*IN THE MATTER OF:**2022 Field Verification and Diagnostic
Testing OIR Proceeding*

DOCKET NOS. 22-HERS-02 & 22-BSTD-03

NOTICE OF REMOTE-ACCESS
WORKSHOPRE: Staff Draft Title 20 and Title 24 Proposed
Regulations

Notice of Workshop Update of the Home Energy Rating System Regulations November 15, 2022

Start Time 10:00 a.m. – End Time 5:00 p.m.

Remote Access Only

See Attendance Instructions.

The California Energy Commission (CEC) will host the first in a series of workshops to discuss the staff proposed changes to the Home Energy Rating System (HERS) regulations in Title 20 (section 1670 et seq.) and the Field Verification & Diagnostic Testing (FV&DT) regulations in the Building Energy Efficiency Standards (Energy Code) primarily in Title 24, Part 1, section 10-103.3. A quorum of commissioners may participate, but no votes will be taken. The public can participate in the workshop consistent with the attendance instructions below. The CEC aims to begin promptly at the start time posted and the end time is an estimate based on the proposed agenda. The workshop may end sooner or later than the posted end time.

Agenda

This workshop will include the proposed changes to both the HERS regulations in Title 20 (docket 22-HERS-02) and the FV&DT regulations in the Energy Code (docket 22-BSTD-03). While staff will accept comments in either docket for either rulemaking, staff does request that the public (to the extent possible) submit their comments to each docket accordingly. For example, comments regarding changes to the HERS regulations in Title 20 should be submitted to docket 22-HERS-02 while comments regarding changes to the FV&DT regulations in the Energy Code should be submitted to docket 22-BSTD-03. However, comments regarding both changes to the regulations (Title 20 and the Energy Code) can be submitted to either docket (22-HERS-02 or 22-BSTD-03). Regardless of where comments are docketed, staff will evaluate all comments for the changes to both Title 20 and the Energy Code.

Staff will discuss the background of the HERS and FV&DT programs, the status of each rulemaking, issues addressed by the rulemakings, organization of the proposed regulations, and the major changes to the regulations.

Staff may also include panel presentations or discussions from other interested parties, and there will be an opportunity for members from the public to provide comments.

A detailed agenda will be posted prior to the workshop at both of the following dockets:

- [22-HERS-02](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-HERS-02) at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-HERS-02>.
- [22-BSTD-03](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-03) at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-03>.

Background

The Warren-Alquist Act directs the CEC to adopt and implement the Energy Code as a primary means to reduce wasteful, uneconomical, and unnecessary uses of energy. Poor installation of air ducts and conditioning equipment in residential buildings have been a concern since the 1980s. The CEC adopted provisions in the Energy Code to verify that these installations (and others) are consistent with Energy Code requirements. In 1999, the CEC promulgated the HERS regulations in California Code of Regulations, Title 20, sections 1670 through 1675. These regulations provided for and regulated Raters who perform FV&DT services. The "Draft Staff Report 2022 Update of the Field Verification and Diagnostic Testing Requirements" (FV&DT Staff Report), and the "Draft Staff Report 2022 Update of the Home Energy Rating System Requirements" (HERS Staff Report), seek to make changes to the FV&DT program to make the program more effective in ensuring compliance with the Energy Code and to update the HERS regulations to remove duplicative language left over.

As California seeks to reduce greenhouse gas emissions and, among other efforts, decarbonize buildings by installing six million heat pumps in buildings by 2030, clear and effective program regulations are important. The scope of the changes proposed in these staff reports include conduct, responsibility, training, and quality assurance for the field verification and diagnostic testing program, as well as increased oversight by the CEC to improve program performance and protect consumers. Additionally, the CEC is proposing to move all aspects of the FV&DT program requirements to the Energy Code. The CEC intends to update the Energy Code with these proposed changes to implement improvements to this program during the 2025 Energy Code triennial code update cycle.

Summary of Staff Proposed Changes

Between the two programs, the majority of substantive changes are discussed in the report focused on the FV&DT program. In that report, staff discusses development of the FV&DT program within the Energy Code, including the addition of the following:

- Naming Convention
 - As part of the overall effort to separate the Whole House and FV&DT programs, staff proposes to utilize distinct names of the regulated parties within these programs. The names will correspond as follows: FV&DT "Administrator" will correspond to HERS "Provider," FV&DT "Technician" will correspond to HERS "Rater," and FV&DT

“Technician Company” will correspond to HERS “Rater Company.” Staff is asking for alternative naming conventions that could help promote the FV&DT program.

- “Field Verification & Diagnostic Testing” is unwieldy as the name of a program, so staff is considering alternative names for the FV&DT Program. Some alternative ideas from staff:
 - Residential Efficiency Verification (REV) Program
 - Energy Code Compliance (ECC)
 - Building Efficiency System Testing (BEST) Program
 - Field Verification Program (FVP)
- Progressive Discipline
 - *Summary:* Rater Companies currently are not regulated in the HERS regulations. There is a lack of discipline options and procedures to address performance issues including data falsification.
 - *Proposal:* Include Technician Companies in FV&DT regulations. Provide progressive discipline options to correct noncompliant behavior (for Providers, Raters, and Rater Companies). Provide additional data entry safeguards.
- Quality Assurance Procedures
 - *Summary:* The Providers have insufficient quality assurance practices and regulatory options. The quality assurance requirements are impractical.
 - *Proposal:* Establish new quality assurance tracking and reporting requirements. Provide for prescriptive alternatives to existing quality assurance procedures.
- Conflict of Interest
 - *Summary:* Some Raters pull permits for contractors, potentially influencing the rater. Some Raters complete and sign compliance documents other than the Certificates of Verification. Some Raters promote legitimate off-purpose use of registered compliance documents which is not expressly permitted.
 - *Proposal:* Define restrictions for Rater Companies to avoid potential for fraud or collusion. Allow Technician Companies to pull permits, but not Technicians in the FV&DT regulations. Allow Technician Companies to complete compliance documents, but not Technicians. Formally permit the legitimate off-purpose use of compliance documents. Restrict the hiring of Technicians to the homeowner (existing homes) or developer (newly constructed homes).
- Designation and Approval
 - *Summary:* Raters have never been approved as special inspectors by local jurisdictions although the Reference Appendices indicate that they are to be considered as such.
 - *Proposal:* Amend the Energy Code to remove the indication that Technicians are to be considered special inspectors. Technicians will be independent third-party to the contractors or builders.

- Training
 - *Summary:* Training requirements are limited causing inconsistent programs between Providers.
 - *Proposal:* Develop clear minimum training requirements including proctored online training and exams, hands-on training, and increased initial oversight by the Provider for Raters.
- Regulatory Alignment
 - *Summary:* The data collection and access requirements are codified in many documents, most of which are associated with the Energy Code.
 - *Proposal:* Add requirements for field verification and diagnostic testing program to the Energy Code (Title 24). Consolidate the data access and gathering requirements into the Energy Code for ease of reference and to assist stakeholders comply with regulatory requirements for the FV&DT program.
- Other Clarifying Changes
 - *Summary:* Regulations do not define access to CEC data retrieval and regulations detail on reporting requirements is limited.
 - *Proposal:* Provide greater clarity on CEC access to data registry records. Provide specific reporting requirements for greater clarity.

Once the FV&DT program is incorporated into the Energy Code, there will be some provisions in the Title 20 HERS regulations (Title 20, section 1670 et seq.) that will require modification. Thus, the HERS Staff Report will focus on that separate rulemaking. While the number of changes to the HERS regulations being contemplated is minor, the rulemaking is critical to the improvement of the FV&DT program and possible future improvements to the HERS program.

Topics to be Explored During this Workshop

Staff is asking for input from the public and stakeholders on the following topics:

1. The proposals being considered in the two rulemakings, as outlined above and discussed more fully in the two draft staff reports.
2. Staff is seeking information on other existing issues and associated impacts regarding the current HERS and FV&DT programs that are not reflected in the two draft staff reports which the CEC should consider addressing at this time.
3. Staff is seeking information on additional alternative approaches and requirements to addressing identified issues regarding the current HERS and FV&DT programs not currently reflected in the two staff reports which the CEC should consider at this time.
4. The costs regarding the potential implementation of the proposed changes to the FV&DT program are estimated by staff in the FV&DT Staff Report (Chapters 7 and 9 for the FV&DT Staff Report). Staff is seeking input on the cost estimates from stakeholders.
5. Staff is seeking an assessment of the possible impacts from the implementation of these proposed regulations on program regulated entities, consumers, and other stakeholders.

6. Staff is seeking input regarding quality assurance measures, including alternatives that may be effective. In section 10-103.3(d)5 of the proposed regulations in Appendix B of the FV&DT Staff Report, staff describes the new quality assurance measures that the Provider will use for Raters. They include On-site Audits, Shadow Audits, In-Lab Audits, and Desk Audits.
7. Staff is seeking input on what would constitute a severe code violation for each category - Technician, Technician Company, and Administrator. In sections 10-103.3(d)7, 10-103.3(d)8, and 10-103.3(d)15 of the proposed regulations in Appendix B of the FV&DT Staff Report, staff describes the progressive discipline process for managing Technicians, Technician Companies, and Administrators (respectively). Staff also acknowledges the importance of addressing a severe code violation that would immediately elevate the issue to decertification.

Attendance Instructions

Remote participants may join via Zoom by internet or phone.

- **To join via Zoom.** Click on <https://energy.zoom.us/j/92774042048?pwd=Y2sxZkpwZkYkY2ZlNVZz09> or login in at [Zoom](https://zoom.us/), at <https://zoom.us/>, and enter the **Webinar ID:** 92774042048 and **passcode:** 341295, and follow all prompts.
- **To join by telephone.** Call Toll Free at (888) 475-4499 or toll at (669) 219-2599. When prompted, enter the **Webinar ID** 92774042048 and **passcode:** 341295.

Zoom Closed Captioning Service. At the bottom of the screen, click the Live Transcript CC icon and choose "Show Subtitle" or "View Full Transcript" from the pop-up menu. To stop closed captioning, close the "Live Transcript" or select "Hide Subtitle" from the pop-up menu. If joining by phone, closed captioning is automatic and cannot be turned off. While closed captioning is available in real-time, it can include errors. A more accurate transcript of the workshop will be docketed and posted as soon as possible after the meeting concludes.

Zoom Spanish Interpreting Services. Open the Zoom meeting. In the "Navigation" panel, click "Settings," then click the "Meeting" tab. Under "In Meeting (Advanced)," click "Language Interpretation" toggle to enable/ disable. If a verification dialog displays, click "Enable" or "Disable" to verify the change. If the option is grayed out, it has been locked and you will need to contact your Zoom admin. Click "Mute Original Audio" to reduce background noise.

Zoom Difficulty. Contact Zoom at (888) 799-9666 ext. 2, or the CEC Public Advisor at publicadvisor@energy.ca.gov, or by phone at (916) 957-7910.

Participate by Telephone. To join the meeting, dial (929) 436-2866 or (877) 853-5257 (Toll Free) or (888) 475-4499 (Toll Free). When prompted, enter the **Webinar ID:** 92774042048 and **passcode:** 341295.

Public Comment.

The CEC encourages the use of its electronic commenting system. Visit the e-commenting page for this docket indicated as follows:

- For comments regarding the proposed changes to Title 20, section 1670 et seq., use docket [22-HERS-02](https://efiling.energy.ca.gov/ECComment/ECComment.aspx?docketnumber=22-HERS-02), at <https://efiling.energy.ca.gov/ECComment/ECComment.aspx?docketnumber=22-HERS-02>.
- For comments regarding the proposed changes to the Energy Code, use docket [22-BSTD-03](https://efiling.energy.ca.gov/ECComment/ECComment.aspx?docketnumber=22-BSTD-03), at <https://efiling.energy.ca.gov/ECComment/ECComment.aspx?docketnumber=22-BSTD-03>.

Enter your contact information and a subject title that describes your comment. Comments may be included in the "Comment Text" box or attached as a downloadable, searchable document in compliance with California Code of Regulations, Title 20, section 1208.1. The maximum file size allowed is 10 MB.

All comments submitted to either docket may be considered in either rulemaking.

Written and oral comments, attachments, and associated contact information (including address, phone number, and email address) will become part of the public record of this proceeding with access available via any internet search engine.

Oral comments will be accepted at the end of the workshop. Comments may be limited to three minutes or less per speaker and one person per organization. To comment via Zoom, use the "raise hand" feature so the administrator can announce your name and unmute you. To comment via telephone, press *9 to "raise your hand" and *6 to mute/unmute.

Written comments regarding topics discussed at this workshop or other comments and concerns regarding the proposed changes may be submitted to the Docket Unit by 5:00 p.m. on December 16, 2022. **The initial comment period for written comments on the FV&DT Staff Report are hereby extended to 5:00 p.m. December 16, 2022.**

Written comments may also be submitted by email. Include docket number 22-HERS-02 or 22-BSTD-03, as indicated, and "Update of the Home Energy Rating System Regulations" or "Update of the Field Verification & Diagnostic Testing Requirements," as appropriate, in the subject line and email to docket@energy.ca.gov.

A paper copy may be mailed to:

California Energy Commission
Docket Unit, MS-4
Docket No. 22-HERS-02 (or 22-BSTD-03 as indicated)
715 P Street
Sacramento, California 95814

Public Advisor. The CEC's Public Advisor assists the public with participation in CEC proceedings. To request assistance, interpreting services, or reasonable modifications and accommodations, call (916) 957-7910 or email publicadvisor@energy.ca.gov as soon as possible but at least five days in advance of the workshop. The CEC will work diligently to meet all requests based on availability.

Media Inquiries. Email mediaoffice@energy.ca.gov or call (916) 654-4989.

General or Technical Subject Inquiries. Email Joe Loyer at joe.loyer@energy.ca.gov or call (916) 237-2546.

Availability of Documents: Documents and presentations for this meeting will be available at the CEC web page [Information Proceeding to Improve the Home Energy Rating System Program](https://www.energy.ca.gov/programs-and-topics/programs/home-energy-rating-system-hers-program/information-proceeding-improve), at <https://www.energy.ca.gov/programs-and-topics/programs/home-energy-rating-system-hers-program/information-proceeding-improve>, or at either of the dockets as follows:

- For documents regarding the proposed changes to Title 20, section 1670 et seq., docket [22-HERS-02](https://efiling.energy.ca.gov/EComment/EComment.aspx?docketnumber=22-HERS-02), at <https://efiling.energy.ca.gov/EComment/EComment.aspx?docketnumber=22-HERS-02>.
- For documents regarding the proposed changes to the Energy Code, docket [22-BSTD-03](https://efiling.energy.ca.gov/EComment/EComment.aspx?docketnumber=22-BSTD-03), at <https://efiling.energy.ca.gov/EComment/EComment.aspx?docketnumber=22-BSTD-03>.

When new information is posted, an email will be sent to those subscribed to Building Standards Efficiency Standards. To receive these notices or notices of other email subscription topics, visit [Subscriptions](https://www.energy.ca.gov/subscriptions), at <https://www.energy.ca.gov/subscriptions>.

Dated: October 27, 2022, at Sacramento, California.

Michael J. Sokol
Director, Efficiency Division

Subscription List: Building Energy Efficiency Standards