

DOCKETED

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Filer:	Joe Loyer
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CALIFORNIA ENERGY COMMISSION715 P Street
Sacramento, California 95814energy.ca.gov

CEC-70 (Revised 7/22)

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

DOCKET NO. 22-BSTD-03

NOTICE OF REMOTE-ACCESS
WORKSHOP

RE: Staff Draft Title 24 Proposed Regulations

**Notice of Workshop
Update of the Residential Field Verification and Diagnostic
Testing Regulations****January 26, 2023**

10:00 a.m. – 5:00 p.m.

Remote Access Only

See Attendance Instructions.

The California Energy Commission (CEC) will host the second in a series of workshops to discuss the staff proposed changes to 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

CEC staff will discuss issues addressed by the FV&DT rulemaking, staff's proposed changes to the FV&DT program (docket 22-BSTD-03), organization of the proposed regulations, and comments received to date. Staff may also include panel presentations or discussions from other interested parties, and there will be an opportunity for members of the public to provide comments. A detailed agenda will be posted prior to the workshop on docket [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 Home Energy Rating System (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 any duplicative language.

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 FV&DT 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

The majority of substantive changes are discussed in the [draft staff 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-parties 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 compliance 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.

Topics to be Explored During this Workshop

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

- 1) Other existing issues and associated impacts regarding the current HERS and FV&DT programs that are not reflected in the draft staff report which the CEC should consider addressing at this time.
- 2) Information on additional alternative approaches and requirements that may more effectively address identified issues regarding the current HERS and FV&DT programs which the CEC should consider at this time.
- 3) Information on the possible impacts and costs associated with implementation of these proposed regulations on program regulated entities, consumers, local agencies, and other stakeholders.

Attendance Instructions

Remote participants may join via Zoom by internet or phone.

- **To join via Zoom.** Click on <https://energy.zoom.us/j/84293337845?pwd=SnNPWEE3Vkk0K1dFdXFrbFBmMWhsZz09>
- or login in at [Zoom](https://zoom.us/), at <https://zoom.us/>, and enter the **Webinar ID** 842 9333 7845 and **Passcode** 742507, 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** 842 9333 7845. No Participant ID is needed. Press the “#” key to bypass this question.

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 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** 842 9333 7845. No Participant ID is needed. Press the “#” key to bypass this question.

Public Comment.

The CEC encourages the use of its electronic commenting system. Visit the e-commenting page for this docket [22-BSTD-03](#), at <https://efiling.energy.ca.gov/EComment/EComment.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 February 28, 2023.

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

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 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: December 16, 2022, at Sacramento, California.

S/Michael Sokol
Michael J. Sokol
Director, Efficiency Division

Subscription List: Building Energy Efficiency Standards