

DOCKETED

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STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

**RULEMAKING TO AMEND HOME ENERGY
RATING SYSTEM REGULATIONS**

Docket No.: 23-HERS-01

**RESOLUTION
ADOPTING REGULATION
AMENDMENTS**

WHEREAS, on February 9, 2023, the State Energy Resources Conservation and Development Commission (“California Energy Commission” or CEC) mailed and posted on the CEC’s website a Notice of Proposed Action (NOPA) formally notifying the public of the CEC’s intent to adopt proposed regulations for the Amendment of the Home Energy Rating System (HERS) Regulations, the Express Terms of the proposed regulations, an Initial Statement of Reasons (ISOR) describing the rationale for the proposal, and the fiscal and economic impact analysis; and

WHEREAS, on February 10, 2023, the NOPA was published in the California Regulatory Notice Register, delivered to the Secretary of the California Natural Resources Agency, and mailed to a representative number of small business enterprises or their representatives that are likely to be affected by the proposed action; and

WHEREAS, each of the above-referenced documents and notices was provided to every person on the CEC’s Building Energy Efficiency Standards subscription list, the CEC’s Rulemaking subscription list, and to every person who had requested notice of such matters, and was posted to the Commission’s website; and

WHEREAS, on March 28, 2023, the CEC held a public hearing, as noticed in the NOPA, to receive comments on the proposed regulation amendments; and

WHEREAS, on March 27, 2023, the 45-day written comment period established by the NOPA closed; and

WHEREAS, on June 1, 2023, the CEC issued a Notice of Availability of 15-Day Language, establishing a written public comment period for the revised language ending on June 16, 2023; and

WHEREAS, on June 16, 2023, the 15-day written comment period established by the 15-Day Language notice closed; and

WHEREAS, on July 19, 2023, the CEC issued a Notice of Public Hearing Date, informing the public that the CEC would consider the 15-day language express terms for adoption on August 9, 2023; and

WHEREAS, on August 9, 2023, the CEC considered adopting the proposed amendments, as reflected in the 15-day language on June 1, 2023, at the business meeting.

THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:

With regard to the California Environmental Quality Act:

- The CEC has considered the application of the California Environmental Quality Act (CEQA) to the proposed regulations and concluded that the proposed regulations will not have any direct, indirect, or cumulatively considerable significant adverse effect on the environment; and
- The CEC has considered the application of CEQA to the proposed regulations and concluded that the proposed regulations are exempt from CEQA under the commonsense exemption (Cal. Code Regs., tit. 14, § 15061 subd. (b)(3)) because it can be seen with certainty that there is no possibility that the proposed amendments will have a significant effect on the environment; and

With regard to the Warren-Alquist Act:

- The CEC promulgated California Code of Regulations, title 20, sections 1670 through 1675, establishing the Home Energy Rating System (HERS) program, pursuant to Public Resources Code section 25942, which directed the CEC to “establish criteria for adopting a statewide home energy rating program for residential dwellings.”
- Another program, the Field Verification and Diagnostic Testing program, which currently utilizes HERS Providers and Raters, is a mandatory administrative program used to collect data and verify compliance with the Building Energy Efficiency Standards (Energy Code) located in Title 24, Parts 1 and 6 of the California Code of Regulations and promulgated pursuant to Public Resources Code section 25402.

With regard to the Administrative Procedure Act:

- The proposed regulations will not result in the creation of new businesses or elimination of existing businesses, will not result in the expansion of businesses currently doing business in California, and will not result in a significant statewide

adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states; and

- The proposed regulations will not result in the creation or elimination of a significant number of jobs within California; and
- The proposed regulations will impose no direct costs or savings, or direct or indirect requirements or mandates, on state agencies, local agencies, or school districts, including but not limited to costs that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, when savings accruing over the lifetime of the appliance is considered; and
- The proposed regulations will result in no costs or savings in federal funding to the State of California; and
- The proposed regulations will not result in any costs or savings to the CEC or any other state agency; and
- The proposed regulations will result in no nondiscretionary costs or savings to local agencies or school districts; and
- The proposed regulations will have no impact on housing costs; and
- The proposed regulations will result in no cost impacts to representative private persons or businesses in reasonable compliance with the regulations; and
- The proposed regulations will not adversely impact the health and welfare of California residents, worker safety, or the state's environment; and
- The proposed regulations have no alternatives that would be more effective in carrying out the purposes of the statutes for which it is proposed, that would be as effective and less burdensome to affected private persons in carrying out those purposes, or that would be more cost effective to affected private persons and equally effective in implementing those purposes; and
- The proposed regulations will not have a significant adverse economic impact on small business and no alternatives were proposed that would lessen any adverse economic impact on small business; and
- The proposed regulations will not require completion of any new report; and
- None of the comments received during the comment period or at the public adoption hearing, and nothing else in the record, justified any changes to the proposed regulations as published on June 1, 2023.

THEREFORE, BE IT RESOLVED, that, on the basis of the entire record before it, the CEC finds that the proposed regulations are exempt from CEQA under the commonsense exemption (Cal. Code Regs., tit. 14, § 15061 subd. (b)(3)) because it can be seen with certainty that there is no possibility that the proposed regulations will have a significant effect on the environment; and

FURTHER BE IT RESOLVED, after considering all comments received and the staff's responses, and based on the entire record of this proceeding, the CEC hereby adopts the amendments to its HERS, as set forth in the express terms that were published in the June 1, 2023, Notice of Availability of 15-day language (Cal. Code of Regs., tit. 20, §§ 1390-1394.2).

The CEC takes this action under the authority of sections 25213 and 25218 (e) of the Public Resources Code, which authorize the CEC to adopt rules or regulations, as reasonable and necessary, to implement, inter alia, the Warren Alquist Act, as well as section 25942 of the Public Resources Code; and

FURTHER BE IT RESOLVED, that documents and other materials that constitute the rulemaking record can be found at the Warren-Alquist State Energy Building, 715 P Street, Sacramento, California, 95814 in the custody of the Docket Unit and online at <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-HERS-01>; and

FURTHER BE IT RESOLVED, the CEC delegates the authority and directs CEC staff to take, on behalf of the CEC, all actions reasonably necessary to have the proposed regulations go into effect, including but not limited to making any appropriate non-substantive changes to the regulations; preparing all appropriate documents, such as the Final Statement of Reasons; compiling and submitting the rulemaking file to the Office of Administrative Law (OAL); making any changes to the rulemaking file required by OAL; and preparing and filing the Notice of Exemption with the State Clearinghouse.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on August 9, 2023.

AYE: Hochschild, Gunda, McAllister, Monahan

NAY: NONE

ABSENT: Gallardo

ABSTAIN: NONE

Dated: August 10, 2023

SIGNED BY:

Kristine Banaag
Secretariat