

<b>DOCKETED</b>	
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<b>Project Title:</b>	2022 Field Verification and Diagnostic Testing OIR Proceeding
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**CALIFORNIA ENERGY COMMISSION**715 P Street  
Sacramento, California 95814[energy.ca.gov](http://energy.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:  
Residential Field Verification and Diagnostic Testing Regulations  
Update****June 9, 2023**

10:00 a.m. – 5:00 p.m.

Remote Access Only

See Attendance Instructions.

The California Energy Commission (CEC) will host the third in a series of workshops to discuss revisions to 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 published in October of 2022. 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 Title 24 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. The agenda 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 (HERS Regulations). These regulations established two parties to accomplish Energy Code compliance, Raters and Providers. Raters are tasked with performing the FV&DT required by the Energy Code and the HERS Regulations. Providers are tasked with training, oversight, and compliance documentation regarding the activities of the Raters. In the 20 years that the HERS program has been in effect, third-party Rater Companies have also been established, but Rater Companies have not yet been addressed by regulation. Rater Companies generally employ Raters to perform FV&DT activities under contract or by direct employment, but they are otherwise unregulated.

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), were both issued in October of 2022 and seek to make changes to the FV&DT program regulations to make it more effective in ensuring compliance with the Energy Code and to update the HERS regulations to remove any duplicative language. Staff has revised the proposed regulations in the draft staff report to reflect new information gathered during the workshops in November of 2022 and January of 2023.

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 compliance program regulations are important. The scope of the changes proposed in the FV&DT Staff Report 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. In a separate but related proceeding, 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 - Revised**

The majority of substantive changes are discussed in revised draft staff report “[2025 Update of the Field Verification and Diagnostic Testing Requirements](https://efiling.energy.ca.gov/GetDocument.aspx?tn=250297&DocumentContentId=85033)” (<https://efiling.energy.ca.gov/GetDocument.aspx?tn=250297&DocumentContentId=85033>). In that report, staff discusses proposed revisions for the FV&DT program within the Energy Code, including the addition of the following:

- Naming Conventions
  - *Summary:* “Field Verification & Diagnostic Testing” is unwieldy as the name of a program, so from several comments submitted, staff is recommending using the new name of Energy Code Compliance (ECC).
  - *Proposal:*
    - 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. Based on many comments, staff is recommending names as follows: ECC-Provider, ECC-Rater, ECC-Rater Company.

- Staff is also proposing that Raters be allowed to continue to refer to themselves as “HERS Raters” to help ensure continuity in the market place.
- Conflict of Interest
  - Contractor Hiring the Rater
    - *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:* While there is the possibility of collusion existing between some Raters (or Rater Companies) and contractors, there are benefits to allowing Raters/Rater Companies to maintain a working relationship with the contractors that they test. Staff proposes to implement some measures to make any collusion more difficult and easier to discover.
      - Raters (or Rater Companies) will be required to register a consent form signed by the building or homeowner prior to providing FV&DT services at the project site.
      - Raters (or Rater Companies) will be required to provide to the building or homeowner a summary of all FV&DT services performed at the project site that includes the tests performed and their pass/fail status.
      - Raters (or Rater Companies) will be required to register all certificates of verification within 72 hours of the actual performance of the test.
  - Rater Shopping
    - *Summary:* Several instances of Rater shopping were reported by Raters. When a Rater fails a project, the project owner sometimes “shops” for a different Rater that will pass the project, rather than fix the issue that resulted in a failed test.
    - *Proposal:* Once a Rater has registered a failing field verification or diagnostic test at a project site, that Rater becomes the Rater of record and cannot be replaced until they register a passing retest, with limited exceptions.
- 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.
    - Allow for reduced quality assurance tests for “verified” Raters. Staff proposes a definition of verified trusted Raters to be a minimum of five years continuous

experience, passing all required quality assurance tests in the last 12 months, and being recommended by the Provider as a trusted Rater.

- 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. Based on feedback from Providers, staff has expanded the details of the training section but not the scope of training.

### **Summary of Staff Proposed Changes – Not Revised**

- 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 Rater Companies in FV&DT regulations. Provide progressive discipline options to correct noncompliant behavior (for Providers, Raters, and Rater Companies). Provide additional data entry safeguards.
- 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.
- 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 FV&DT 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 stakeholder compliance with regulatory requirements for the FV&DT program.
- Other Clarifying Changes
  - *Summary:* Regulations do not define access to CEC data retrieval and 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, including 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 can 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/81317599268?pwd=RTIhemNvSENkK3phQm9iZnJpbmNmUT09>
- or login in at [Zoom](https://zoom.us/), at <https://zoom.us/>, and enter the **Webinar ID** 813 1759 9268 and **Passcode** 873262 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** 813 1759 9268. 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](mailto: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** 813 1759 9268. No Participant ID is needed. Press the “#” key to bypass this question.

### Public Comment.

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 **June 23, 2023**.

The CEC encourages the use of its electronic commenting system. Visit the e-commenting page for this [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>.

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.

Written comments may also be submitted by email. Include docket number 22-BSTD-03, as indicated, and "Update of the Field Verification & Diagnostic Testing Requirements" in the subject line and email to [docket@energy.ca.gov](mailto:docket@energy.ca.gov). All comments submitted to the docket may be considered in the rulemaking.

A paper copy may be mailed to:

California Energy Commission  
Docket Unit, MS-4  
Docket No. 22-BSTD-03  
"Update of the Field Verification & Diagnostic Testing Requirements"  
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](mailto: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](mailto:mediaoffice@energy.ca.gov) or call (916) 654-4989.

**General or Technical Subject Inquiries.** Email Joe Loyer at [joe.loyer@energy.ca.gov](mailto: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 [Modifications to Field Verification and Diagnostic Testing Program Requirements](https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2025-building-energy-efficiency-0) at <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2025-building-energy-efficiency-0>, or 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>.

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:** May 24, 2023, at Sacramento, California.

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

**Subscription List:** Building Energy Efficiency Standards and Title 24 Enforcement