

Notice of Exemption

TO: Office of Planning and Research
1400 Tenth Street, Room 212
Sacramento, California 95814

FROM: California Energy Commission
715 P Street
Sacramento, California 95814

Project Title: 2023 Amendments to the Home Energy Rating System (HERS) Regulations Rulemaking

Project Location: Statewide

Description of Nature, Purpose, and Beneficiaries of Project: Rulemaking to amend the Home Energy Rating System (HERS) Regulations (Title 20, §1670-1675) to:

- 1) Repeal certain administrative provisions related to a separate program, the field verification & diagnostic testing (FV&DT) program, while retaining all provisions related to the Home Energy Rating System (HERS) Regulations, to facilitate the addition of the administrative FV&DT provisions to the Title 24 Energy Code;
- 2) Other non-substantive changes.

The HERS program is a voluntary program and provides efficiency upgrade recommendations to improve a home's energy efficiency rating. The HERS program utilizes providers and raters. A separate program, the Field Verification and Diagnostic Testing (FV&DT) program, is a mandatory administrative program to verify compliance with the Title 24 Energy Code and collect compliance data. The HERS and FV&DT programs are designed to benefit the environment and natural resources by promoting energy efficiency in buildings, thereby reducing the need to procure and generate electricity.

The FV&DT program also uses HERS providers and raters and, for this reason, some administrative provisions related to the FV&DT program were originally located in the Title 20 HERS regulations. This has made compliance with the Energy Code difficult and confusing for stakeholders and management of the Whole-House Home Energy Rating program and FV&DT program more challenging for the CEC.

This rulemaking action removed certain administrative FV&DT provisions from California Code of Regulations title 20 sections 1670 through 1675 because they already exist in the Title 24 Energy Code or because they are being added to the Energy Code in a concurrent rulemaking. The adoption of the corresponding provisions in Title 24 will become effective at the same time as their removal from Title 20, so as to avoid any gap in regulation for the HERS program. This action will have no regulatory or practical impact on the HERS program, and therefore is essentially clerical in nature.

Name of Public Agency Approving Project: California Energy Commission

Name of Person or Agency Carrying Out Project: California Energy Commission

Exempt Status: (Check One)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption: State type and section number:
- Statutory Exemption: State code number: _____
- Other: Adoption of the amendments is exempt from CEQA requirements pursuant to the “common sense” exemption (CEQA Guidelines, 15061, subd. (b)(3)). Not a project.

Reasons why project is exempt:

Not a Project. The amendments to the HERS regulations are not a project because they do not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment (Cal. Code Regs., tit. 14, §15061(a)). The amendments to the HERS regulations do not impose any new requirements and therefore have no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Accordingly, the amendments do not meet the definition of a project under CEQA.

Common Sense Exemption. Further, even if the amendments to HERS regulations are considered a “project,” they would not be subject to CEQA under the “common sense” exemption (Cal. Code Regs., tit. 14, §15061(b)(3)) because they do not have a significant effect on the environment or result in a physical change to the environment. The goal of the amendments to the HERS regulations is designed to move administrative provisions related to the FV&DT program from Title 20 of the California Code of Regulations to Title 24. Accordingly, the amendments do not have the potential to have a significant effect on the environment.

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Signed by the Lead Agency

Date received for filing by OPJ