

INITIAL STATEMENT OF REASONS
ESTABLISHMENT OF CALIFORNIA HOME ENERGY RATING SYSTEM
REGULATIONS

February 2, 1999

I. DESCRIPTION OF PUBLIC PROBLEM: STATEMENT OF SPECIFIC PURPOSE

Public Resources Code Section 25942 requires that the California Energy Commission (Commission) establish a California Home Energy Rating System (HERS) Program to certify home energy rating services in California. The overall goal of this program is to provide reliable information to differentiate the energy efficiency among California homes, and guide investment in cost effective home energy efficiency measures. Information may also be provided to field verify the physical characteristics and measures installed in new homes to demonstrate compliance with the 1998 Residential Building Energy Efficiency Standards (California Code of Regulations, Title 24, Part 6). The HERS program is intended to promote home energy efficiency, reduce energy utility bills and make housing more affordable in California, provide more comfortable and safe home environments, increase property values, and preserve California environmental quality and energy security.

The Commission is thus required to conduct rulemaking proceedings and establish California HERS program regulations mandated by Public Resources Code Section 25942.

II. PHASING OF RULEMAKING PROCEEDING

To respond to initial comments received from stakeholders on the scope of the proceeding, staff proposes to develop the California HERS program regulations in two separate rulemaking phases. Rulemaking conducted under Phase I will establish regulations focusing on requirements for rating systems, certification of HERS providers and training of raters providing the field verification and diagnostic testing functions necessary for obtaining compliance credits available to builders of new homes under the 1998 Residential Building Energy Efficiency Standards. At the close of the Phase I proceeding, further development and adoption of specific regulations for HERS ratings, cost effectiveness analyses, energy bill evaluation for existing and new houses, and data collection activities independent of the Title 24 field verification and diagnostic testing function, will be conducted as Phase II of the rulemaking proceeding. This Initial Statement of Reasons relates only to the Phase I rulemaking proceeding.

III. SPECIFIC SCOPE OF PHASE I REGULATIONS

Phase I regulations will establish procedures for certifying HERS providers, entities whose responsibility it is to administer home energy rating services. This responsibility includes the training, testing and certification of HERS raters who perform the field verification and diagnostic testing necessary to enable builders of new houses to qualify for duct efficiency and

building envelope air leakage reduction compliance credits which are allowed under the 1998 Residential Building Energy Efficiency Standards.

Specific requirements for rating systems, providers and raters related to procedures, training, testing, certification, and diagnostic testing and field verification activities given in sections 1672, 1673, 1674 and 1675 of the proposed HERS Phase I regulations are summarized below.

§1672. Requirements for Rating Systems

All rating systems utilized shall be based on site inspections of homes; be conducted in accordance with documented diagnostic testing procedures established by the rating system; rate energy use from space heating, space cooling and water heating; rate the annual source use of energy on a 0 to 100 scale; and shall be able to provide field verification and diagnostic testing as required by Chapter 7 of the 1998 Residential Alternative Calculation Method (ACM) Approval Manual (Commission Publication #400-98-003).

§1673. Requirements for Providers

Training of Raters:

Each certified HERS Provider is required to have a training program for raters which is to include classroom and field training in the identification and analysis of residential building equipment and systems and energy use patterns; field safety practices; diagnostic testing and field verification procedures prescribed in the 1998 Residential Alternative Calculation Method Approval Manual; and California Home Energy Rating System Program requirements specified in the proposed regulations.

Rater Agreements:

Each provider shall enter into an agreement which requires each rater they administer to comply with the HERS regulations; provide true, accurate and complete field verification and diagnostic testing; and comply with conflict of interest requirements specified in the regulations.

Rater Registry:

Each provider shall certify that each rater has met the requirements of the regulations and maintain, and make available to the public a registry of all raters which they administer.

Data Collection and Analysis:

Each provider is required to maintain a database which provides information to the Commission for evaluating the accuracy of energy consumption and cost estimates relative to actual homeowner energy bills.

Each provider is responsible for maintaining the following data for a period of five years:

- (a) information for each Title 24 field verification and diagnostic testing service provided, including all certificates and reports required to obtain compliance credit as required by Chapter 7 of the 1998 Residential Alternative Calculation Method Approval Manual;
- (b) a copy of materials which were used train raters.

Quality Assurance:

Each provider is required to have a quality assurance program that provides for annual field checks of rater performance; a complaint resolution process; and a data quality assurance protocol.

Conflict of Interest:

Providers shall be entities that are completely independent from raters, and providers and raters shall be independent entities from builders and installers whose work is being field verified or diagnostically tested. Providers are prohibited from accepting payment in exchange for reporting a rating or field verification and diagnostic test result that was not in fact conducted and reported in compliance with these regulations.

§1674. Certification of Providers and Rating Systems

This section states specific application requirements for an entity to be certified by the Commission as a provider. It also provides for confidentiality of a provider's rating system.

§1675. Review by the Commission

This section authorizes the Commission, at its discretion, to annually review performance of certified providers to determine if they have complied with the HERS regulations. The Commission may also investigate complaints, and if there is a violation of these regulations, decertify a provider.

These regulations will become effective upon adoption by the California Energy Commission, subsequent approval by the Office of Administrative Law and filing with the

Secretary of State. The HERS regulations will be incorporated into the California Code of Regulations, Title 20, Chapter 4, Article 8, Sections 1670-1676.

IV. DOCUMENTS AND STUDIES RELIED UPON

On November 4, 1998, the Commission adopted the 1998 Alternative Calculation Method (ACM) Approval Manual for Residential Buildings (Commission Publication P400-98-003) and incorporated it by reference into the administrative regulations for its standards for building energy efficiency. The specific procedures for field verification and diagnostic testing of measures installed for receiving compliance credit are described in Chapter 7 of the ACM Manual. This Manual is one of the primary documents which staff will rely upon to prepare the Phase I regulations. Staff also intends to develop Phase I regulations with substantial public input. Comments have been requested from stakeholders regarding the scope and content of Phase I regulations. Phase I regulations are intended to address these comments.

V. ALTERNATIVES THAT WOULD LESSEN IMPACTS ON BUSINESS, INCLUDING SMALL BUSINESS

The Commission is required by statute to develop a HERS program (Public Resources Code Section 25942). Within the constraints of this statutory requirement, the Commission intends to solicit public comment on the scope and content of the HERS regulations, and will consider alternative proposals to the extent such alternatives would be consistent with applicable law. The regulations which establish a HERS rating program may provide a net positive impact on business by stimulating the industry and associated infrastructure.

VI. NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS

The Commission and its staff have considered the impact of the Phase I regulations, and they have been discussed with interested parties in the recent proceeding to adopt compliance tool requirements for the building standards. Many of these building standards proceeding participants were also businesses, builders, compliance experts, and current providers of home energy ratings. Neither the Commission staff nor interested parties have identified an adverse impact to businesses that would result from the adoption of Phase I regulations. If anything, there is the expectation that businesses would benefit in the following ways:

- 1) Builders will have more options for complying with the building standards, which should make compliance with the standards easier and lower housing costs slightly;
- 2) The regulations will create more of a market for both providers and raters that provide home energy rating services, and result in creating new business opportunities;

- 3) Phase I will set the stage for Phase II, which will provide the details of the HERS rating system, leading to still more employment and business opportunities for providers and raters.

VII. CONFLICT WITH FEDERAL REGULATIONS

The proposed regulations do not conflict with any federal regulations addressing the same issue. No federal regulations have been adopted addressing the same issue.