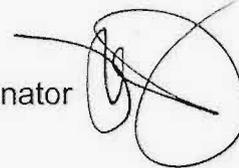


M e m o r a n d u m

To: Jackalyne Pfannenstiel, Chair
Arthur H. Rosenfeld, Commissioner
Valerie Hall, Deputy Director

Date: December 3, 2008
Telephone: 916-653-7271

From: **California Energy Commission** – Tony Rygg, CEQA Coordinator
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Subject: **HERS RULEMAKING IS EXEMPT FROM CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS**

The Energy Commission has proposed to adopt new regulations for Home Energy Rating Systems (HERS). The California Environmental Quality Act (CEQA) requires that all discretionary acts by public agencies be subject to environmental analysis unless the act (or project) is exempt by statute, regulation, or "common sense" from the necessity for such analysis. (Cal. Code Regs., title 14, Section 15061.) The so-called "common sense" exemption is based on the "general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment." (*Ibid.*) The proposed HERS regulations meet this "common sense" requirement, as they do not have the potential for causing a significant effect on the environment.

The proposed HERS regulations are administrative in nature, and are intended to result in "consistent, accurate, and uniform ratings based on a single statewide rating scale" for residential dwellings. (Public Resources Code, Section 25992, subd. (a).) They set forth the protocols by which building energy use will be estimated and reported, the training requirements for home raters, the creation of a centralized data base for uniform reporting of ratings, labeling procedures, and a basis for making recommendations for cost-effective energy improvements in residential dwellings. The overall intent of the program is to provide consumers the opportunity to seek reliable information regarding the efficiency of the dwelling they own or intend to purchase, and how it might be made more efficient with cost-effective improvements. This information is provided through trained and certified home energy raters. The proposed HERS regulations implement a voluntary program through requirements for rater training, comparative ratings, labeling requirements, and so forth. The HERS requirements do not mandate any particular building materials or any particular efficiency measures. The use of any efficiency measure would be the option of the home owner, who may or may not act on the rating information provided. Nothing in these proposed regulations has the potential for creating a significant adverse impact to the environment, and the program is thus exempt from the requirements of CEQA.