

Memorandum

To: Chair Hochschild
Commissioner Monahan
Commissioner Douglas
Commissioner Gunda
Commissioner McAllister

Date: August 11, 2021

From: Michael Murza, Attorney
Chief Counsel's Office

Subject: Proposed California Environmental Quality Act Compliance for *Assembly Bill 3232 Final Staff Report California Building Decarbonization Assessment*

At the August 11, 2021, California Energy Commission (CEC) business meeting, staff propose the Assembly Bill 3232 California Building Decarbonization Assessment Final Staff Report (AB 3232 Final Report) for the CEC's consideration and approval.

For purposes of complying with the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 et seq.), I recommend the CEC find that approving this AB 3232 Final Report is not a "project" for purposes of CEQA.

Under CEQA, a "project" means "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment..." (Pub. Resources Code § 21065.) The definition of "project" does not include:

The creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. [14 Cal. Code of Regulations § 15378(b)(4).]

The AB 3232 Final Report meets this exception to the definition of a "project" under CEQA because it only provides an assessment of the potential for California to reduce greenhouse gases from buildings by 40 percent below 1990 levels by 2030. Any decisions to engage in rulemakings or fund specific projects consistent with the conclusions of this report will be made in the future. Because no commitment to any specific project is made in this AB 3232 Final Report, approving it will not cause a direct or reasonably foreseeable indirect change in the environment.

In the event that approval of the AB 3232 Final Report is determined to be a project, it would nonetheless be exempt from CEQA requirements pursuant to the "common sense" exemption (14 Cal. Codes of Regulations, § 15061(b)(3)). This exemption indicates that CEQA only applies to projects which have the potential for causing a significant effect on the environment. A significant effect on the environment is defined as substantial, or potentially substantial, adverse change in the environment. (Pub.

Resources Code, § 21068; 14 Cal. Code of Regulations, § 15382). The AB 3232 Final Report will not create an adverse change to the environment because it illustrates the state's pathway to decarbonizing single-family, multifamily, and commercial buildings; identifies challenges to and opportunities from decarbonizing; estimates the impact of decarbonization activities on the electricity grid; and illustrates topics and data gaps needing additional analysis in future proceedings. Any specific decarbonization projects will be considered by the CEC at a future business meeting along with any potential environmental impacts of the specific project. Additionally, there is no binding commitment to spend funds in a particular manner or enough specific information about future projects to warrant environmental review at this time. It can therefore be seen with certainty that there is no possibility that adoption of the AB 3232 Final Report may have a significant effect on the environment.

Consequently, the adoption of the AB 3232 Final Report is not a project and CEQA does not apply; alternatively, if it is determined to be a project, it is exempt from CEQA.

STATE OF CALIFORNIA

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

Docket No. 19-DECARB-01

**ASSEMBLY BILL 3232
FINAL STAFF REPORT
CALIFORNIA BUILDING
DECARBONIZATION
ASSESSMENT**

ADOPTION OF THE ASSEMBLY BILL 3232
FINAL STAFF REPORT
CALIFORNIA BUILDING DECARBONIZATION ASSESSMENT

WHEREAS, Assembly Bill 3232 (Friedman, Chapter 373, Statutes of 2018) tasks the California Energy Commission (CEC) with assessing the potential for California to reduce greenhouse gases from residential and commercial buildings by 40 percent below 1990 levels by 2030, in consultation with the California Public Utilities Commission, the California Air Resources Board, and the California Independent System Operator; and

WHEREAS, Assembly Bill 3232 requires the CEC to consider and include in the report, and the CEC has considered and included in the *Assembly Bill 3232 Final Staff Report – California Building Decarbonization Assessment* (AB 3232 Final Report), the following criteria:

- An evaluation, based on the best available data and existing analyses, of the cost per metric ton of carbon dioxide equivalent of the potential reduction from residential and commercial building stock relative to other statewide greenhouse gas emissions reduction strategies.

- The cost-effectiveness of strategies to reduce emissions of greenhouse gases from space heating and water heating in both new and existing residential and commercial buildings.
- The challenges associated with reducing emissions of greenhouse gases from low-income housing, multifamily housing, and high-rise buildings.
- Load management strategies to optimize building energy use in a manner that reduces the emissions of greenhouse gases.
- The potential impacts of emission reduction strategies on ratepayers, construction costs, and grid reliability. In assessing the impact on grid reliability, the CEC shall account for both of the following:
 - The CEC's 2019 Building Energy Efficiency Standards, effective January 1, 2020, that require solar energy systems on all new single-family and low-rise residential dwellings.
 - The increased load and impact on electrical infrastructure due to transportation electrification.

WHEREAS, the CEC staff hosted six public workshops from December 2019 to May 2021, to discuss and seek feedback on the findings presented in the AB 3232 Final Report and received many comments submitted to the public docket; and

WHEREAS, the CEC staff sought data and input relating to building decarbonization from stakeholders, including, but not limited to, the California Public Utilities Commission, the California Air Resources Board, investor owned utilities, publicly owned utilities, environmental groups, and building trades and home builders in preparing the *Draft Staff Report – California Building Decarbonization Assessment*, which was released on May 7, 2021; and

WHEREAS, the CEC has considered the application of the California Environmental Quality Act (CEQA) to the adoption of the AB 3232 Final Report, and concludes that the adoption of the AB 3232 Final Report is not a “project” under CEQA, but in the event that adoption was determined to be a project, that it would nonetheless be exempt from CEQA requirements pursuant to the “common sense” exemption (CEQA Guidelines, § 15061, subd. (b)(3)).

THEREFORE BE IT RESOLVED, the CEC hereby finds the AB 3232 Final Report not to be a project under CEQA; adopts the *Assembly Bill 3232 Final Staff Report – California Building Decarbonization Assessment* with any errata approved at the August 11, 2021, business meeting; directs the CEC staff to prepare an *Assembly Bill 3232 California Building Decarbonization Assessment Commission Report* incorporating any non-substantive changes such as typographical corrections; and directs staff to make the *Assembly Bill 3232 California Building Decarbonization Assessment Commission Report* available to the public.

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 11, 2021.

AYE:

NAY:

ABSENT:

ABSTAIN:

Liza Lopez
Secretariat