



**CALIFORNIA  
ENERGY COMMISSION**



California Energy Commission

## **Draft Guiding Principles**

# **California Electric Homes Program (CalEHP), First Edition**

**(Assembly Bill 137, 2021)**

**Gavin Newsom, Governor**  
**May 2022 | CEC-300-2022-007-D**

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**DISCLAIMER**

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# ABSTRACT

Assembly Bill 137 (Ting, Stats. 2021, Ch. 77), codified in Public Resources Code section 25403.2, directs the California Energy Commission (CEC) to implement and administer a statewide program to incentivize the construction of new multifamily and single-family market-rate all-electric residential buildings, as well as residential energy storage systems, with funds appropriated in the Budget Act of 2021. The CEC has developed these Guiding Principles to be utilized as the overarching objectives for program design, implementation, and administration of the California Electric Homes Program. These principles will be considered and adopted by the CEC and provide guidance for the potential third-party administrator to consider in designing and implementing the program design, which will be competitively selected. Ultimately, the program will provide incentives, technical assistance, and establish a technical advisory group for market-rate all-electric and energy storage equipped residential builders and developers.

**Keywords:** AB 137, building decarbonization, CalEHP, Market-rate homes, technical assistance, technical advisory group, low-emission building, energy storage systems, Building Initiative for Low-Emissions Development

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# **EXECUTIVE SUMMARY**

The CEC has developed these Guiding Principles to provide overarching objectives for program design, implementation, and administration of CalEHP. These principles will be considered and adopted by the California Energy Commission. These principles reflect key program elements the CEC is prioritizing, and should be considered by potential third-party administrators as they develop future program proposals.

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# CHAPTER 1:

## Program Overview

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### Background:

Assembly Bill 137 (Ting, Stats. 2021, Ch. 77), codified in Public Resources Code section 25403.2, directs the California Energy Commission (CEC) to implement and administer a statewide program to incentivize the construction of new multifamily and single-family market-rate all-electric residential buildings, as well as residential energy storage systems, with funds appropriated in the Budget Act of 2021. The program is hereafter referred to as the California Electric Homes Program (CalEHP).

CalEHP is named in statute as the Building Initiative for Low-Emissions Development Program Phase 2 and is a separate program from the Building Initiative for Low-Emissions Development (BUILD) Program authorized by Public Utilities Codes Sections 921 and 921.1 (SB 1477, 2018), which targets new low-income residential housing.<sup>1</sup> A goal of the CalEHP program is to spur significant market adoption of all-electric buildings and energy storage systems and other technologies that would not otherwise be constructed or installed.

On March 16, 2022, CEC staff published an initial draft of these CalEHP Guiding Principles to the CEC's program docket (21-DECARB-01). A staff workshop was held on March 17, 2022, to consider public input on the draft Guiding Principles and to answer questions about the program and the CEC's plan to administer CalEHP through a competitively selected third party. In addition to the oral questions and comments presented at the workshop, CEC staff accepted written comments on the draft Guiding Principles and workshop materials until March 31, 2022. This version of the draft CalEHP Guiding Principles has been revised to incorporate changes considering the public comments received.

### Program Budget and Timeline:

Program funding is authorized under Senate Bill 170 (SB 170 Skinner, Budget Act of 2021) and provides an overall budget of \$75 million. CalEHP provides a minimum of \$58,125,000 for incentives, and no more than \$16,875,000 for administrative support and technical assistance. In addition, with approval of the Department of Finance, program funding may be shifted from the administrative support and assistance budget to the program incentives budget.

The overall program budget may be spent over the program duration, or until June 30, 2032, when it is disencumbered. There is no specific restriction on annual spending provided it is within the overall budget and funds are available.

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<sup>1</sup> If you are interested in more information on the BUILD Program that provides incentives and technical assistance for all-electric low-income residential housing, please visit the CEC's BUILD website at <https://www.energy.ca.gov/programs-and-topics/programs/building-initiative-low-emissions-development-program>.

## Key Program Elements Mandated by Statute:

Public Resources Code section 25403.2 specifies several required elements for the CalEHP, which are summarized below:

**Element 1.** CalEHP must “incentivize the construction of new multifamily and single-family market-rate residential buildings as all-electric buildings or with energy storage systems.”

Subdivision (a) of Public Resources Code section 25403.2 provides CalEHP’s mission statement: to incentivize the construction of new multifamily and single-family market-rate residential buildings as all-electric buildings or with energy storage systems. This mission contains several key elements:

- **New** – The projects receiving CalEHP incentives must be new buildings, not existing buildings.
- **Multifamily and single-family residential buildings** – CalEHP is focused on housing in California. While both multifamily and single-family residences will be eligible for incentives, buildings receiving CalEHP incentives must be residential buildings. Commercial, industrial, and other non-residential buildings are not eligible.
- **Market-rate** – As noted above, CalEHP is focused on residential buildings that are oriented towards the market-rate rental or homebuying market. Projects that are deed restricted to operate as low-income rental housing should consider applying for incentives under the BUILD Program.
- **All-electric** – A central feature of CalEHP is to incent all-electric homes and remove barriers to market adoption of electric appliances and building technologies in new homes in California.
- **Energy storage systems** – CalEHP may further improve the resilience and demand-flexibility of California’s homes through the incorporation of energy storage systems at new residences.

**Element 2.** Market transformation is a statutory goal of CalEHP. Public Resources Code section 25403.2 (c)(3) requires that CalEHP be structured to “ensure, to the extent reasonable, that the program incentivizes the construction of buildings as all electric or with energy storage systems that would not have otherwise been constructed as all electric or with energy storage systems but for [CalEHP].”

Further, Public Resources Code section 25403.2 (c)(4) provides that the program should, to the extent reasonable, incentivize “the installation of technologies not otherwise required pursuant to the applicable local and state building codes.” These provisions require CalEHP to focus on market transformation by ensuring, to the extent reasonable, that incentives are directed toward projects that would not have otherwise been built as all-electric or with energy storage and toward the installation of technologies not required by local or state building codes.

Currently, many local jurisdictions across California have enacted rules that promote all-electric construction or other technologies. More information on local ordinances exceeding the 2019 California Energy Code are available on the [CEC’s local ordinance website](#) at

<https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency-3>. More information on the approved 2022 California Energy Code, which takes effect on January 1, 2023, is available on the CEC's [2022 Building Energy Efficiency Standards website](https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency) at <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency>.

**Element 3.** CalEHP should be designed with the goal of “spur[ring] significant market adoption of all-electric buildings and energy storage systems,” pursuant to Public Resources Code Section 25403.2(d). Market transformation is central to CalEHP. Incentives must be directed toward the principal objectives of enabling California’s builders to construct all-electric residential buildings and install energy storage systems in new homes.

## **Program Administration**

The CEC, through a competitive solicitation process, will contract with a third-party administrator to implement this program.

## **Role of the Guiding Principles for the California Electric Home Program**

The CEC has developed these Guiding Principles to be utilized as the overarching objectives for program design, implementation and administration. These principles will be considered and adopted by the California Energy Commission, and will provide overarching objectives for the competitively selected third-party administrator to consider in designing and implementing the program.

# **CHAPTER 2:**

## **Guiding Principles of the Program**

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### **Market Transformation**

As noted above, the primary goal of this program is to spur significant market adoption of new all-electric residential buildings and the installation of residential energy storage systems. Creating clean energy residential buildings will further California’s goals of reducing greenhouse gas emissions as we increase the adoption of near-zero emission technologies in the built environment.

### **Building Greenhouse Gas (GHG) Reduction**

Today, California’s buildings contribute to 25% of the state’s greenhouse gas emissions. As California continues to adopt innovative energy and environmental policies to successfully reduce GHG emissions, improve air quality, and make meaningful strides towards a more equitable future, this program will help California reach its 2030 GHG reduction goals through the building of new all-electric homes above current building code standards.

### **Energy Equity and Disadvantaged Communities**

The CEC and State are committed to improving the environment, and economically advancing at-risk communities and reducing the disproportionate environmental effects of pollution in California communities, including California’s tribal communities. While CalEHP is required by statute to focus on residences in the market-rate rental or homebuying market, the program design should incorporate this policy goal.

### **Program Eligibility**

Incentives will be available for new all-electric residential buildings and energy storage. The program is available to new market-rate developments. Buildings that qualify for the BUILD program, which targets new low-income all-electric housing, are not eligible under CalEHP.

### **Speed, Program Simplicity, and Quality**

Reducing greenhouse gas emissions is a priority. The State’s ambitious environmental goals require near-term implementation and long-term results. The selected third-party administrator should design a program that can be launched quickly and provides a simple and effective user-experience to accelerate market transformation of all-electric residential building development. This can mean fewer documents for payment claims, simpler incentive structures, reasonable participant support, and other streamlined program features.

### **Outreach & Public Engagement**

The program design and stakeholder feedback should incorporate best practices for stakeholder engagement and ensure adequate information sharing and collaboration. The program marketing should be designed to reach key stakeholders and potential applicants

across the state. Any public stakeholder events, such as workshops, should include best practices for engagement, such as advanced public notice and comment periods.

## **Fiscal Responsibility**

Fiscal responsibility to California citizens is important to the CEC. When it comes to administering this program, potential third-party administrators should consider cost efficiencies, ensuring appropriate use of the funds, and leveraging efforts to streamline program administration. The program administrator will establish appropriate oversight mechanisms to ensure that the selected award recipients properly use the CEC's funds for the intended purposes.

## **Incentive Layering**

As a market transformation program, it is reasonable to allow for incentive layering to help spur faster market adoption. While incentive funds from multiple sources can be leveraged, they cannot exceed the cost to the builder.

## **Program Reporting**

The CEC values program transparency and information sharing. The third-party administrator will readily make program development and implementation data available to both the public and the CEC. This will include but is not limited to the amount of funding available for potential applicants and details of incentivized projects, such as location, incentive amounts and project characteristics.

## **Statewide Availability of Incentives**

Simplicity of incentive design and broad market adoption are priorities for California. Accordingly, to the extent reasonable, the CEC intends for CalEHP incentives to be offered in localities with different approaches to local building codes.

# Memorandum

To: Docket 21-DECARB-01

Date: May 10, 2022

From: **Nick Oliver**  
**Staff Counsel, Chief Counsel's Office**  
California Energy Commission  
715 P Street  
Sacramento, California 95814

Subject: Basis for Finding the Approval of the CalEHP Guiding Principles is Not a Project and is Exempt Under the California Environmental Quality Act

## I. Introduction.

The California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.; see also CEQA Guidelines, Cal. Code Regs., tit. 14, § 15000 et seq.) requires that state agencies assess and prepare environmental documents disclosing any significant adverse environmental impacts of discretionary project approvals. However, discretionary approvals that do not fit the definition of a “project” are not subject to CEQA, and, additionally, CEQA designates certain projects exempt from its requirements. Of relevance here and discussed below in relation to the adoption of the CalEHP (California Electric Homes Program) Guiding Principles are the exclusion of administrative policy and procedure making, government funding mechanisms, and fiscal activities from the definition of “project” (Cal. Code Regs., tit. 14, § 15378(b)(2) & (4)), the Class 7 and 8 exemptions (Cal. Code Regs., tit. 14, §§ 15307 and 15308), and the common-sense exemption (Cal. Code Regs., tit. 14, § 15061(b)(3)).

## II. The objective of the CalEHP Program is the reduction of harmful greenhouse gas emissions and other pollutants from buildings in California.

The CEC’s Guiding Principles for CalEHP establish high-level guidance and policy findings for the program, including eligibility criteria and policy considerations for potential third-party program administrators. CalEHP is a building decarbonization incentive program established by Assembly Bill 137 (Ting, Stats. 2021, Ch. 77) that will provide technical assistance and financial incentives for new, market-rate residential building projects using an all-electric building design and energy storage systems. CalEHP’s authorizing statute, Public Resources Code section 25403.2, indicates that a goal of the program to spur significant market adoption of all-electric buildings and energy storage systems. As the Guiding Principles further elaborate, “buildings contribute to 25% of the state’s greenhouse gas emissions,” and CalEHP “will help support California reach its 2030 GHG reduction goals through the building of new all-electric homes above current building code standards.” Accordingly, an objective of CalEHP is to protect the environment through the avoidance of GHGs and other pollutants associated with new buildings in California.

CalEHP fits within a robust landscape of aggressive GHG mitigation and decarbonization policies in California. The California Global Warming Solutions Act of 2006 authorizes the California Air Resources Board to use market-based compliance mechanisms to regulate GHGs. Additionally, Senate Bill 100 (De León, Chapter 312, Statutes of 2018) committed California to a 100 percent carbon-free electricity supply by 2045. The burning of fossil fuels in gas-powered appliances in California’s buildings contributes to changes in the Earth’s climate by releasing GHGs, such as carbon dioxide and methane, and generates other air pollutants that can harm building occupants such as nitrogen dioxide. California has set ambitious goals to reduce or eliminate GHG emissions in the building sector in hopes of mitigating the increasingly observable impacts of climate change. To reach these goals, the state will need to utilize clean energy resources, energy storage systems, and all-electric technologies in new buildings, rather than fossil-fuel generation.

Thus, the main objective of the proposed CalEHP Guiding Principles is to facilitate market transformation through the removal of technical and economic obstacles to emissions reductions in new buildings through the uptake of all-electric building design and residential energy storage systems.

### **III. The CalEHP Guiding Principles are not a project.**

CEQA applies to discretionary project approvals, and although a vote to approve CalEHP Guiding Principles would be a discretionary act, the Guiding Principles themselves do not meet the definition of a “project” under the CEQA Guidelines (See Cal. Code Regs., tit. 14, § 15378). Under CEQA, the definition of “[p]roject does not include . . . [c]ontinuing administrative or maintenance activities, such as purchases for supplies, personnel-related actions, *general policy and procedure making*” (Cal. Code Regs. tit. 14, § 15378(b)(2)). The CalEHP Guiding Principles are intended to be high-level guidance and policy direction for the program. The CalEHP Guiding Principles also establish that, moving forward, the CEC intends to seek a third-party administrator to manage the incentives for CalEHP. As such, the CalEHP Guiding Principles do not commit the CEC to provide incentives to any specific future building project. Any future projects receiving a CalEHP incentive will still be required to comply with applicable local permitting and project-specific environmental review requirements.

Under the CEQA Guidelines, the definition of project also 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” (Cal. Code Regs. tit. 14, § 15378(b)(4)). The CalEHP Guiding Principles fit within this provision because they relate exclusively to “government fiscal activities” and “funding mechanisms,” i.e., the payment of incentives by the CEC or its third-party administrator to eligible housing developers. The CalEHP Guiding Principles do not commit the CEC to provide incentives to any specific project which may result in a potentially significant physical impact on the environment, and the Guiding Principles are not being adopted with any specific project proposals in mind. Rather, the Guiding Principles position the CEC to solicit a third party to administer funding, while providing policy direction to future incentive applicants about how the CEC will apply certain statutory requirements. Any future projects receiving a CalEHP incentive will still be required to comply with applicable local permitting and project-specific environmental review requirements.

Finally, the CalEHP Guiding Principles do not meet the definition of 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, § 15378(a)). As a high-level policy guidance document, it is self-evident that the CalEHP Guiding Principles do not directly result in any physical change in the environment. Any indirect impacts derived from the incentives and technical assistance to be offered under CalEHP would not be reasonably foreseeable because the Guiding Principles do not commit funding or technical assistance to any specific site or future project. There is simply not enough information about the location, design, and specific features that will be incorporated into future projects that receive technical assistance and CalEHP incentives at this time to conduct a meaningful review and public disclosure of indirect physical changes in the environment that could eventually be—at least in part—supported by the technical assistance and incentives that will be available under CalEHP.

#### **IV. Even if the CalEHP Guiding Principles were a project, the Class 7 and 8 exemptions, and the common-sense exemption, would apply.**

California Code of Regulations, title 14, sections 15307 and 15308 exempt actions taken by a regulatory agency pursuant to state law to “assure the maintenance, restoration, or enhancement of a natural resource” and actions taken to “assure the maintenance, restoration, enhancement, or protection of the environment” where the regulatory process involves procedures for protection of the environment. The CalEHP Guiding Principles will have no significant adverse effect on the environment and fall within the categorical exemptions of sections 15307 and 15308. As discussed above in Section II, the CalEHP Guiding Principles further the statutory goals of achieving market transformation and reductions of GHGs and other air pollutant emissions from new buildings built in California. This action is taken for the express purpose of enhancing a natural resource (e.g., air quality, climate) and is also a “regulatory process” involving procedures for the enhancement and protection of the environment from energy waste, GHGs, and other harmful air pollutants associated with burning fossil fuels in gas-powered appliances in buildings, such as nitrogen dioxide.

These Guiding Principles squarely address these issues and qualify as an action taken by the CEC, as directed by the state law, to assure the maintenance, restoration, enhancement, or protection of the environment (Class 8), and as action to assure the maintenance, restoration or enhancement of a natural resource (Class 7), where the regulatory process involves procedures for protection of the environment. Furthermore, none of the exceptions to exemptions listed in CEQA Guidelines section 15300.2 apply to this project. Additionally, there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. For these reasons, this project is exempt from CEQA.

The CalEHP Guiding Principles are also exempt from CEQA under the common-sense exemption (Cal. Code Regs., tit. 14, § 15061(b)(3)). As noted above in Section III, CEQA only applies to projects that have the potential for causing a significant effect on the environment. A significant effect on the environment is defined as a substantial, or a potentially substantial, adverse change in the environment, and does not include an economic change by itself or beneficial changes to the environment (Pub. Resources Code, § 21068; Cal. Code Regs., tit. 14, § 15382). The goal of CalEHP is to provide economic and technical support for the uptake of all-electric construction practices and energy storage in new market-rate buildings in California, but the Guiding Principles do not guarantee that the support offered will in fact transform building design practices within California’s housing market. However, even if CalEHP attains these goals and makes available sufficient incentives to shift market behaviors toward cleaner building practices, this outcome will be environmentally beneficial, any specific



future projects receiving a CalEHP incentive will still be required to comply with applicable local permitting and project-specific environmental review requirements. Because the Guiding Principles do not commit to the CEC a definite course of action on any specific future project that could cause adverse environmental impacts, “it can be seen with certainty that there is no possibility that [approving the CalEHP Guiding Principles] may have a significant effect on the environment.”

## **V. Conclusion.**

As shown above, approval of the CalEHP Guiding Principles is a regulatory action that is not a project under CEQA and would protect natural resources and the environment, consistent with the categorical exemptions to CEQA review under sections 15307 and 15308 of the CEQA Guidelines. Additionally, the Guiding Principles are consistent with the common-sense exemption under section 15061(b)(3) of the CEQA Guidelines.

**STATE OF CALIFORNIA**

**STATE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION**

**RESOLUTION OF THE  
CALIFORNIA ELECTRIC HOMES PROGRAM  
(21-DECARB-01)**

**WHEREAS**, Assembly Bill 137 (Ting, Statutes of 2021, Chapter 77), added, among other statutes, Public Resources Code section 25403.2, which directs the California Energy Commission (CEC) to implement and administer the Building Initiative for Low-Emissions Development Program Phase 2 program to incentivize the construction of new multifamily and single-family market-rate residential buildings as all-electric buildings or with energy storage systems, using moneys appropriated pursuant to Items 3360-105-0001 and 3360-005-0001 of Section 2.00 of the Budget Act of 2021; and

**WHEREAS**, Items 3360-105-0001 and 3360-005-0001 of Section 2.00 of the Budget Act of 2021 (Senate Bill 170, Skinner) appropriated an overall program budget of \$75 million for the Building Initiative for Low-Emissions Development Program Phase 2, with up to \$16,875,000 for administrative support and assistance and a minimum of \$58,125,000 for set aside for incentives; and

**WHEREAS**, CEC staff has renamed this program from Building Initiative for Low-Emissions Development Program Phase 2 to California Electric Homes Program, referred to in the shortened form as CalEHP; and

**WHEREAS**, Public Resources Code section 25403.2 (c)(1) provides that CEC shall develop and approve program guidelines in a public process before June 30, 2022; and

**WHEREAS**, Public Resources Code section 25403.2 (c)(3) provides that, in the implementation of CalEHP, the CEC shall “ensure, to the extent reasonable, that the program incentivizes the construction of buildings as all electric or with energy storage systems that would not have otherwise been constructed as all electric or with energy storage systems but for [CalEHP]”; and

**WHEREAS**, Public Resources Code section 25403.2 (c)(4) provides that, in the implementation of CalEHP, the CEC shall “ensure, to the extent reasonable, that [CalEHP] incentivizes the installation of technologies not otherwise required pursuant to the applicable local and state building codes”; and

**WHEREAS**, Public Resources Code section 25403.2 (d) provides that a goal of CalEHP is to “spur significant market adoption of all-electric buildings and energy storage systems”; and

**WHEREAS**, the CalEHP Guiding Principles, First Edition, were informed by these requirements and were published in draft form to the CalEHP program docket (21-DECARB-01) and emailed to the CalEHP email subscription list on March 16, 2022; and

**WHEREAS**, CEC staff conducted a public workshop on March 17, 2022, to solicit stakeholder feedback on the CalEHP Guiding Principles, First Edition, and accepted written comments from March 4, 2022, through March 31, 2022; and

**WHEREAS**, having considered public comments on the initial draft of the CalEHP Guiding Principles, First Edition, CEC staff published a revised draft of the CalEHP Guiding Principles, First Edition, to the CalEHP program docket (21-DECARB-01) and to the CalEHP email subscription list on May 10, 2022; and

**WHEREAS**, the CEC’s legal office has considered the application of the California Environmental Quality Act (CEQA) to the CEC’s adoption of the CalEHP Guiding Principles, First Edition, and advised that the CEC’s adoption of these Guiding Principles is exempt from CEQA under Title 14, California Code of Regulations, sections 15307, 15308, and 15061(b)(3); and

**RESOLVED**, the CEC hereby finds the adoption of the CalEHP Guiding Principles, First Edition, to be exempt from CEQA under California Code of Regulations, title 14, sections 15307 and 15308 (Class 7 and 8 exemptions) and section 15061(b)(3) (common sense exemption) and adopts the CalEHP Guiding Principles, First Edition; and

**FURTHER BE IT RESOLVED**, that the CEC hereby delegates the authority and directs the CEC staff to publish a Grant Funding Opportunity to solicit and contract with a third-party administrator to implement and administer CalEHP’s incentive program; and

**FURTHER BE IT RESOLVED**, that the Executive Director or their designee shall take all actions reasonably necessary to implement CalEHP as specified in the CalEHP Guiding Principles, First Edition, including, if necessary, making grammatical or other non-substantive changes to the Guiding Principles as needed.

### **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 May 24, 2022.

AYE:

NAY:

ABSENT:

ABSTAIN:

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Liza Lopez  
Secretariat