

Memorandum

To: Commissioners

Date: June 8, 2022

Telephone: (916) 897-3450

From: **RJ Wichert**
Efficiency Division
California Energy Commission
1516 Ninth Street
Sacramento CA 95814-5512

Subject: **Approval of California's Building Energy Code Compliance Software (CBECC 2022.1.0 and CBECC-Res 2022.1.0).**

Proposed resolution approving the 2022 public domain residential and nonresidential / multifamily software as required by Public Resources Code section 25402.1(a). The public domain compliance software has been updated as described in the 2022 Alternative Calculation Method Reference Manuals, and will enable contractors, builders, architects, engineers, and government officials to demonstrate performance compliance with the 2022 Building Energy Efficiency Standards.

The proposed public domain residential (CBECC-Res) and nonresidential / multifamily software (CBECC), version 2022.1.0 Release Candidate (RC), can be downloaded from the [2022 Energy Code Compliance Software webpage](https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency-1) (https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency-1) or the [2022 Energy Code Compliance Software and Supporting Documents Docket](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-02) (https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-02).

Memorandum

To: Docket 22-BTSD-02

Date: June 8, 2022

From: **Michael J. Sokol, Deputy Director**
Efficiency Division
California Energy Commission

Subject: Basis for Finding that California's Building Energy Code Compliance Software is not a project and is exempt from the California Environmental Quality Act under the Common-Sense Exemption

I. CEQA

The California Environmental Quality Act (CEQA) (Public Resources Code sections 21000 *et seq.*, see also CEQA Guidelines, California Code of Regulations, Title 14, sections 15000 *et seq.*) requires that state agencies consider the environmental impact of certain discretionary decisions. CEQA allows for certain projects to be exempted from its requirements. Of relevance here, and discussed further below, is the common-sense exemption (California Code of Regulations, Title 14, section 15061(b)(3)).

II. Public Resources Code Section 25402.1 California's Building Energy Code Compliance Software

Public Resources Code section 25402 requires the CEC to adopt building design and construction standards that increase the efficiency in the use of energy and water for new residential and new nonresidential buildings, and to adopt energy and water conservation design standards. The Building Energy Efficiency Standards (Energy Code) are contained in Part 6 and associated administrative regulations in Part 1 of Title 24 of the California Code of Regulations. Further, section 25402 requires the Energy Code to be cost-effective when taken in its entirety and when amortized over the economic life of the structure when compared with historic practice.

Further, Public Resources Code section 25402.1(a) requires the CEC to develop a public computer program which will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by residential and nonresidential buildings. The commission may charge a fee for the use of the program, which fee shall be based upon the actual cost of the program, including any computer costs.

III. The Proposed Action

On August 11, 2021, the CEC adopted amendments to its Building Energy Efficiency Standards, located in Part 1, Chapter 10, and Part 6 of Title 24 of the California Code of

Regulations (2022 Energy Code), as authorized and directed by Public Resources Code section 25402.¹

On December 14, 2021, the California Building Standards Commission approved the 2022 Energy Code. The 2022 Energy Code will go into effect on January 1, 2023.

To implement the requirement of section 25402.1(a), CEC staff developed a public domain computer program that is comprised of California' Building Energy Code Compliance residential software (CBECC-Res 2022.1.0) and nonresidential / multifamily software (CBECC 2022.1.0) which is used to demonstrate performance compliance with the 2022 Energy Code. The CEC is considering approving CBECC-Res 2022.1.0 and CBECC 2022.1.0 at the June 8, 2022, CEC business meeting.

IV. CEC approval of CBECC-Res 2022.1.0 and CBECC 2022.1.0 is not a project.

CEQA only applies to an action "that has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (California Code of Regulations, Title 14, section 15061(a)).

The CEC develops and approves a public domain computer program to assist the building industry in demonstrating performance compliance with the 2022 Energy Code, pursuant to Public Resources Code section 25402.1(a). CBECC-Res 2022.1.0 and CBECC 2022.1.0 is used as a tool to ensure compliance with the energy models detailed in the ACM, which provide rules for the public domain software. CBECC-Res 2022.1.0 and CBECC 2022.1.0 does not impose any new requirements and therefore has 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 public domain computer program, CBECC-Res 2022.1.0 and CBECC 2022.1.0, does not meet the definition of a project under CEQA.

V. Even if CEC approval of CBECC-Res 2022.1.0 and CBECC 2022.1.0 were considered a project, it would be exempt from CEQA under the Common-Sense Exemption.

CBECC-Res 2022.1.0 and CBECC 2022.1.0 are exempt from CEQA under the Common-Sense Exemption. As stated above, CEQA only applies to projects that have the potential to cause a significant effect on the environment (California Code of Regulations, Title 14, section 15061(b)(3)). 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 (Public Resources Code section 21068; California Code of Regulations, Title 14, section 15382).

CBECC-Res 2022.1.0 and CBECC 2022.1.0 are developed to assist the building industry in demonstrating performance compliance with the 2022 Energy Code. CBECC-Res 2022.1.0 and CBECC 2022.1.0 reflect the requirements outlined in the 2022 Energy Code and the energy modeling in the ACM. CBECC-Res 2022.1.0 and CBECC 2022.1.0 contain no new

¹ Prior to adopting the 2022 Energy Code, the CEC certified an Environmental Impact Report (EIR) for the Energy Code. The CEC found, based on the Final EIR (which included a draft EIR, comments received on the Draft EIR, and responses to the comments received) and the entire record of the proceeding, that there were no significant, unmitigated environmental impacts from the adoption of the 2022 Energy Code.

requirements to comply with the 2022 Energy Code. As such, they do not have the potential to have a significant effect on the environment.

VI. Conclusion

As shown above, CEC approval of CBECC-Res 2022.1.0 and CBECC 2022.1.0 is not a project because the software does not impose any new requirements and therefore has no potential for resulting in either a direct physical change in the environment. Even if CEC's approval of CBECC-Res 2022.1.0 and CBECC 2022.1.0 were a project, there is no possibility that it would have a significant effect on the environment and is therefore exempt pursuant to the Common-Sense Exemption under California Code of Regulations, Title 14, section 15061(b)(3).

STATE OF CALIFORNIA

**STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

IN THE MATTER OF:

***2022 Building Energy Efficiency Standards,
California Code of Regulations, Title 24,
Parts 1 and 6***

Docket No. 22-BTSD-02

**RESOLUTION APPROVING THE 2022 PUBLIC DOMAIN RESIDENTIAL
(CBECC-RES 2022.1.0) AND NONRESIDENTIAL AND MULTIFAMILY
(CBECC 2022.1.0) COMPLIANCE SOFTWARE**

WHEREAS, the 2022 Building Energy Efficiency Standards, amending California Code of Regulations, Title 24, Parts 1 and 6, were adopted by the California Energy Commission (CEC) on August 11, 2021, with a proposed effective date of January 1, 2023, and

WHEREAS, these standards were approved by the California Building Standards Commission on December 14, 2021, and will go into effect January 1, 2023; and

WHEREAS, the Warren-Alquist Act, in Public Resources Code section 25402.1(a), requires the CEC to develop a public computer program which will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by residential and nonresidential buildings; and

WHEREAS, in order to implement the requirement of section 25402.1(a), CEC staff developed a public domain computer program that is comprised of California's Building Energy Code Compliance residential software (CBECC-Res 2022.1.0), which is used to estimate energy consumed by single-family residential buildings and demonstrate compliance with the performance-based single-family residential provisions of the 2022 Building Energy Efficiency Standards, California Code of Regulations, Title 24, Parts 1, Chapter 10, and 6; and

WHEREAS, in order to implement the requirement of section 25402.1(a), CEC staff developed a public domain computer program that is comprised of California's Building Energy Code Compliance nonresidential software (CBECC 2022.1.0), which is used to estimate energy consumed by nonresidential and multifamily residential buildings and demonstrate compliance with the performance-based nonresidential and multifamily provisions of the 2022 Building

Energy Efficiency Standards, California Code of Regulations, Title 24, Parts 1, Chapter 10, and 6; and

WHEREAS, as part of developing a public domain computer program, CEC staff has reviewed and tested CBECC-Res 2022.1.0 and CBECC 2022.1.0 to ensure they meet the requirements, specifications, and criteria for building energy models set forth in the 2022 Alternative Calculation Method Approval Manual; and

WHEREAS, CEC staff has considered the application of the California Environmental Quality Act (CEQA) to the CBECC-Res 2022.1.0 and the CBECC 2022.1.0 compliance software and finds that the compliance software does not meet the definition of a “project” under Public Resources Code section 21065, because the compliance software have no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and even if the compliance software were considered a project, then the project would fall under the “common sense exemption” in California Code of Regulations, Title 14, section 15061(b)(3) because there is no reasonable possibility the compliance software would have a significant effect on the environment; and

WHEREAS, the CEC has considered staff’s proposed updates to the CBECC-Res 2022.1.0 and the CBECC 2022.1.0 compliance software and finding that its adoption is exempt from CEQA.

THEREFORE, BE IT RESOLVED, that on the basis of the entire record before it, the CEC hereby adopts staff’s finding that the CBECC-Res 2022.1.0 and the CBECC 2022.1.0 compliance software are not subject to CEQA because they do not meet the definition of a “project” as they are not an activity that has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and even if they were a project, they are exempt from CEQA pursuant to the Common-Sense Exemption (California Code of Regulations, Title 14, section 15061(b)(3)) because there is no reasonable possibility that the activity will have a significant effect on the environment, including unusual circumstances; and

FURTHER BE IT RESOLVED, that the CEC approves CBECC-Res 2022.1.0 used for estimating energy consumed by single-family residential buildings as specified in Public Resources Code section 25402.1, subdivision (a), and for demonstrating compliance with the performance-based single-family residential provisions of the 2022 Building Energy Efficiency Standards, California Code of Regulations, Title 24, Parts 1 and 6; and

FURTHER BE IT RESOLVED, that the CEC approves CBECC 2022.1.0 used for estimating energy consumed by nonresidential and multifamily residential buildings as specified in Public Resources Code section 25402.1, subdivision (a), and for demonstrating compliance with the performance-based nonresidential and multifamily residential provisions of the 2022 Building Energy Efficiency Standards, California Code of Regulations, Title 24, Parts 1 and 6; and

FURTHER BE IT RESOLVED, that the CEC directs the executive director or their designee to take all actions reasonably necessary to make the above-referenced software available and maintain the software in good form, including but not limited to releasing bug fixes, correcting

calculation and analytical errors, necessary ongoing software updates, user interface changes, and other minor updates.

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 June 8, 2022.

AYE:

NAY:

ABSENT:

ABSTAIN:

Original Signed by:

Liza Lopez, Secretariat
California Energy Commission