

Memorandum

To: Commissioners

Date: June 8, 2022

Telephone: (916) 903-4685

From: Haile Bucaneg
Efficiency Division
California Energy Commission
715 P Street
Sacramento CA 95814

Subject: Certification of the Energy Conservation Manual for the 2022 Building Energy Efficiency Standards (2022 Energy Code)

Background

Proposed resolution certifying the following portions of the energy conservation manual, which is required by Public Resources Code section 25402.1(e), and adopting staff's determination that this action is exempt from the California Environmental Quality Act (CEQA). The energy conservation manual acts as a reference and instructional guide to aid in the design and construction of energy efficient buildings, and is comprised of the following portions.

- a. Compliance Documents. The 2022 Energy Code Compliance Documents are used by the building industry and local jurisdictions to demonstrate compliance with the Energy Code.

The 2022 Energy Code Compliance Documents can be downloaded from the [2022 Energy Compliance Manuals and Forms](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-BSTD-04) docket [<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-BSTD-04>].

- b. Data Registry Requirements Manual (DRRM). The 2022 DRRM is a resource for Data Registry Providers to aid in the design and implementation of software procedures and user interface features for their data registries that meet the requirements of Reference Joint Appendix 7.

The DRRM can be downloaded from the [2022 Energy Compliance Manuals and Forms](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-BSTD-04) docket [<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-BSTD-04>].

- c. Alternative Calculation Method (ACM) Reference Manuals. The 2022 Single-Family Residential ACM Reference Manual and 2022 Nonresidential and Multifamily ACM Reference Manual are used to document the modeling methods used to demonstrate performance compliance with the Energy Code. Consideration and possible certification of the 2022 Energy Conservation Manual, specifically the Energy Code compliance documents, DRRM, and the ACM Reference Manuals. These documents are part of the Energy Conservation Manual, which is required by Public Resources Code section 25402.1(e).

The 2022 Single-Family Residential ACM Reference Manual and the 2022 Nonresidential and Multifamily ACM Reference Manual can be downloaded from the [2022 Energy Code Compliance Software & Supporting Documents](#) docket

[<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-02>]

- d. Nonresidential and Multifamily Compliance Manuals and Single-Family Residential Compliance Manual. The 2022 Nonresidential and Multifamily Compliance Manuals and 2022 Single-Family Residential Compliance Manual act as reference and instructional guide to aid in the design and construction of energy efficient buildings. These documents are part of the Energy Conservation Manual, which is required by Public Resources Code section 25402.1(e), and were certified at the May 11th, 2022 Business Meeting.

Project Manager

Che Geiser, Supervisor, Standards Tools Development Unit

Haile Bucaneg, Senior Mechanical Engineer, Building Standards Office

Oral Presentation Outline

Staff will be available at the June 8, 2022, business meeting to provide a brief summary of the ordinance and to answer questions.

Business Meeting Participants

Che Geiser, Supervisor, Standards Tools Development Unit

Haile Bucaneg, Senior Mechanical Engineer, Building Standards Office

Matt Chalmers, Assistant Chief Counsel

Josephine Crosby, Assistant Chief Counsel

Commission Action Requested

Certification of the Energy Code Compliance Documents, DRRM, and ACM Reference Manuals.

Adopt findings that the Energy Code Compliance Documents, DRRM, and ACM Reference Manuals are exempt from CEQA.

Memorandum

To: Dockets 22-BTSD-02, 21-BSTD-04

Date: **June 8, 2022**

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

Subject: Basis for Finding that the CEC's certification of the Data Registry Requirements Manual, Alternative Calculation Method Reference Manuals, and Compliance Documents, is not a project and are exempt from the California Environmental Quality Act (CEQA) under the Common-Sense Exemption

I. CEQA

CEQA requires that state agencies consider the environmental impact of certain discretionary decisions (Public Resources Code sections 21000 *et seq.*, see also CEQA Guidelines, California Code of Regulations, Title 14, sections 15000 *et seq.*). 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 Energy Conservation Manual

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.

No later than 180 days after approval of the Energy Code by the California Building Standards Commission, the CEC must certify an energy conservation manual for use by designers, builders, and contractors of residential and nonresidential buildings (Public Resources Code section 25402.1(e)). The manual shall contain, but not be limited to, the following: (1) the standards for energy conservation established by the CEC; (2) forms, charts, tables, and other data to assist designers and builders in meeting the standards; (3) design suggestions for meeting or exceeding the standards; (4) any other information which the CEC finds will assist persons in conforming to the standards; (5) instructions for use of the computer program for calculating energy consumption in residential and nonresidential buildings; and (6) the prescriptive method for use as an alternative to the computer program.

III. The Proposed Action

On August 11, 2021, the CEC adopted amendments to the 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(e), CEC staff developed an energy conservation manual that is comprised of several documents, including residential and nonresidential compliance manuals, residential and nonresidential alternative compliance method reference manuals (ACM), a data registry requirements manual (DRRM), and other compliance forms (Compliance Documents), all of which contain information to assist designers, builders, and contractors in meeting the 2022 Energy Code, including forms, charts, and other data. As part of developing the energy conservation manual, the CEC developed new content for the ACM, DRRM, and Compliance Documents, which explain and demonstrate compliance with the requirements of the 2022 Energy Code. The CEC is considering certifying the ACM, DRRM, and Compliance Documents at the June 8, 2022, CEC business meeting.

IV. CEC's certification of the ACM, DRRM, and Compliance Documents 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)).

As discussed above, the CEC certifies an energy conservation manual to assist interested persons with complying with the Energy Code, pursuant to Public Resources Code section 25402.1(e). The energy conservation manual provides information regarding the 2022 Energy Code, which was previously adopted by the CEC on August 11, 2021, and approved by the California Building Standards Commission on December 14, 2021. The energy conservation manual 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 energy conservation manual, including the ACM, DRRM, and Compliance Documents do not meet the definition of a project under CEQA.

V. Even if CEC's certification of the ACM, DRRM, and Compliance Documents is considered a project, it would be exempt from CEQA under the Common-Sense Exemption.

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.

The CEC's certification of the ACM, DRRM, and Compliance Documents is 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).

The ACM, DRRM, and Compliance Documents are designed to help building owners, architects, engineers, designers, energy consultants, builders, enforcement agencies, contractors and installers, and manufacturers comply with and enforce the 2022 Energy Code. The ACM is a guide that outlines instructions for the public domain software that is used to demonstrate compliance through the performance pathway and includes additional technical information necessary to perform modeling consistent with the 2022 Energy Code. The DRRM is an informational resource for Data Registry Providers to aid in designing and implementing software procedures and user interface features for data registries. The Compliance Documents act as a tool to assist designers and installers in demonstrating that their designs comply with the 2022 Energy Code. The ACM, DRRM, and Compliance Documents contain no new requirements to comply with the 2022 Energy Code. As such, the ACM, DRRM, and Compliance Documents do not have the potential to have a significant effect on the environment.

VI. Conclusion

As shown above, the CEC's certification of the ACM, DRRM, and Compliance Documents is not a project because they do not impose any new requirements and therefore have no potential for resulting in either a direct physical change in the environment. If the CEC's certification of the ACM, DRRM, and Compliance Documents were a project, there is no possibility that they may have a significant effect on the environment and, therefore, they are 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-BSTD-02
Docket No. 21-BSTD-04

**RESOLUTION CERTIFYING THE ENERGY CONSERVATION MANUAL FOR THE
2022 BUILDING ENERGY EFFICIENCY STANDARDS**

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(e), requires the CEC to certify “an energy conservation manual for use by designers, builders, and contractors of residential and nonresidential buildings” no later than 180 days after the California Building Standards Commission approves the Building Energy Efficiency Standards; and

WHEREAS, in order to implement the requirement of section 25402.1(e), CEC staff has developed an energy conservation manual that is comprised of several documents, including Compliance Manuals, which the CEC certified on May 11, 2022, Alternative Calculation Methods (ACM) Reference Manuals, a Data Registry Requirements Manual (DRRM), and other compliance forms (Compliance Documents), all of which contain information to assist designers, builders, and contractors in meeting the Building Energy Efficiency Standards, including forms, charts, and other data; and

WHEREAS, in order to develop the updated ACM, DRRM, and Compliance Documents, CEC staff conducted an extensive public process, inviting people with knowledge of and interest in the Building Energy Efficiency Standards to review and comment on the updated ACM, DRRM, and Compliance Documents, and revised the ACM, DRRM, and Compliance Documents to respond to the comments that were received; and

WHEREAS, the CEC commends the work of its staff, its contractors, and utility sponsors of specific provisions of the Building Energy Efficiency Standards, to develop the updated ACM, DRRM, and Compliance Documents and revise them to respond to commenters; and

WHEREAS, the CEC further commends the commenters for devoting their time to provide valued input to the California Energy Commission so that the updated ACM, DRRM, and Compliance Documents can be effective in facilitating efficiency and successful implementation of the 2022 Building Energy Efficiency Standards; and

WHEREAS, CEC staff has considered the application of the California Environmental Quality Act (CEQA) to the ACM, DRRM, and Compliance Documents and finds that the ACM, DRRM, and Compliance Documents do not meet the definition of a “project” under Public Resources Code section 21065, because they 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 ACM, DRRM, and Compliance Documents were to be 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 ACM, DRRM, and Compliance Documents would have a significant effect on the environment; and

WHEREAS, the CEC has considered staff’s proposed updates to the ACM, DRRM, and Compliance Documents and finding that their certification 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 ACM, DRRM, and Compliance Documents 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 hereby certifies the ACM, Publication Numbers CEC-400-2022-008-CMD and CEC-400-2022-009-CMD, used as an instructional guide that outlines instructions for the public domain software that is used to demonstrate compliance under the performance pathway in the 2022 Building Energy Efficiency Standards; and

FURTHER BE IT RESOLVED, that the CEC hereby certifies the DRRM, Publication Number CEC-400-2022-011, used as an informational resource for Data Registry Providers to aid in the

design and implementation of software procedures and user interface features for data registries;
and

FURTHER BE IT RESOLVED, that the CEC hereby certifies the Compliance Documents, used as a tool to assist designers and installers to demonstrate that their designs comply with the 2022 Building Energy Efficiency Standards; 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 documents available and in good form, including but not limited to correcting typographical and other non-substantive errors.

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