



**California Energy Commission
June 16, 2023 Business Meeting
Backup Materials for Agenda Item No 3iii:
Approval of updated California Building Energy Code Compliance Software
(CBECC-Res 2022.3.0 and CBECC 2022.3.0)**

The following backup materials for the above-referenced agenda item are available as described below:

1. Proposed Resolution, attached below.
2. CEQA memo, attached below.
3. [CBECC-Res 2022.3.0 Release Candidate \(RC\) compliance software](http://www.bwilcox.com/BEES/cbecc2022.html)
[http://www.bwilcox.com/BEES/cbecc2022.html]
4. [CBECC 2022.3.0 Release Candidate \(RC\) compliance software](https://bees.noresco.com/software2022.html)
[https://bees.noresco.com/software2022.html]

For the complete record, please visit: [2022 Energy Code Compliance Software & 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].

To stay informed about this project and receive documents as they are filed, please subscribe to the Topic, which can be accessed here:
<https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency>. The Topic sends out email notifications and direct links when documents are filed in the proceeding docket.

STATE OF CALIFORNIA

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION APPROVING UPDATED 2022 PUBLIC DOMAIN RESIDENTIAL
(CBECC-RES 2022.3.0) AND NONRESIDENTIAL AND MULTIFAMILY
(CBECC 2022.3.0) 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 went 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, Part 1 Chapter 10 and Part 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 and multifamily 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, Part 1 Chapter 10 and Part 6; and

WHEREAS, CEC approved CBECC-Res 2022.1.0 and CBECC 2022.1.0 at the June 8, 2022, CEC business meeting; CBECC-Res 2022.2.0 and CBECC 2022.2.0 at the October 12, 2022, CEC business meeting; and minor updates to CBECC-Res 2022.2.0 and CBECC 2022.2.0, CBECC-Res 2022.2.1, and CBECC 2022.2.1, on January 23, 2023, by the Executive Director; and

WHEREAS, to respond to stakeholder comments, CEC developed the updated CBECC-Res 2022.3.0 and CBECC 2022.3.0; and

WHEREAS, as part of developing the updated public domain computer program, CEC staff has reviewed and tested CBECC-Res 2022.3.0 and CBECC 2022.3.0 to ensure they meet the requirements, specifications, and criteria for building energy models set forth in the 2022 Alternative Calculation Method (ACM) Approval Manuals; and

WHEREAS, CEC staff has considered the application of the California Environmental Quality Act (CEQA) to the CBECC-Res 2022.3.0 and the CBECC 2022.3.0 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 has 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 2022.3.0 and the CBECC 2022.3.0 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 2022.3.0 and the CBECC 2022.3.0 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 2022.3.0 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 2022.3.0 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 pursuant to the 2022 ACM Approval Manual, sections 1.3.1 and 1.5.1, the CEC rescinds its approval of CBECC-Res 2022.2.0, CBECC-Res 2022.2.1, and any other alternative calculation methods incorporating the previously approved compliance software 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 for permit applications made on or after October 1, 2023; and

FURTHER BE IT RESOLVED, that pursuant to the 2022 ACM Approval Manual, sections 1.3.1 and 1.5.1, the CEC rescinds its approval of CBECC 2022.2.0, CBECC 2022.2.1, and any other alternative calculation methods incorporating the previously approved compliance software 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 for permit applications made on or after October 1, 2023; and

FURTHER BE IT RESOLVED, that documents and other materials that related to the approval of CBECC-Res 2022.3.0 and CBECC 2022.3.0 can be found at the CEC, 715 P Street, Sacramento, California, 95814 in the custody of the Docket Unit and online in Docket Number 22-BSTD-02
<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=22-BSTD-02>; and

FURTHER BE IT RESOLVED, that CBECC-Res 2022.3.0 and CBECC 2022.3.0 can be found online at the 2022 Energy Code Compliance Software website
<https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency-1>; 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 16, 2023.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated:

Liza Lopez
Secretariat

Memorandum

To: Docket 22-BTSD-02

From: **Michael J. Sokol, Director**
Efficiency Division
California Energy Commission
715 P Street
Sacramento, California 95814

Date: June 16, 2023

Subject: Basis for Finding that the updated California 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 energy and water efficiency for new residential and new nonresidential buildings. 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 CEC 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 went into effect on January 1, 2023.

To implement the requirements of section 25402.1(a), CEC staff developed a public domain computer program comprised of California Building Energy Code Compliance residential software (CBECC-Res 2022.1.0) and nonresidential and multifamily software (CBECC 2022.1.0) which are used to demonstrate performance compliance with the 2022 Energy Code. The CEC approved CBECC-Res 2022.1.0 and CBECC 2022.1.0 at the June 8, 2022, CEC business meeting. The CEC approved updated programs, CBECC-Res 2022.2.0 and CBECC 2022.2.0, at its October 12, 2022, business meeting. The Executive Director further approved minor updates to CBECC-Res 2022.2.0 and CBECC 2022.2.0, CBECC-Res 2022.2.1 and CBECC 2022.2.1, on January 23, 2023.

To respond to stakeholder comments, CEC developed updated programs CBECC-Res 2022.3.0 and CBECC 2022.3.0. The CEC is considering certifying CBECC-Res 2022.3.0 and CBECC 2022.3.0 at the June 16, 2023, CEC business meeting.

IV. CEC approval of CBECC-Res 2022.3.0 and CBECC 2022.3.0 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 2022.3.0 and CBECC 2022.3.0 are used as tools to ensure compliance with the energy models detailed in the 2022 Alternative Calculation Method (ACM) Reference Manuals, which provide rules for the public domain software. CBECC-Res 2022.3.0 and CBECC 2022.3.0 do not impose any new requirements and therefore have 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 2022.3.0 and CBECC 2022.3.0, does not meet the definition of a project under CEQA.

V. Even if CEC approval of CBECC-Res 2022.3.0 and CBECC 2022.3.0 were considered a project, it would be exempt from CEQA under the Common-Sense Exemption.

CBECC-Res 2022.3.0 and CBECC 2022.3.0 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

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.

change by itself (Public Resources Code section 21068; California Code of Regulations, Title 14, section 15382).

CBECC-Res 2022.3.0 and CBECC 2022.3.0 are developed to assist the building industry in demonstrating performance compliance with the 2022 Energy Code. CBECC-Res 2022.3.0 and CBECC 2022.3.0 reflect the requirements outlined in the 2022 Energy Code and the energy modeling in the 2022 ACM Reference Manuals. CBECC-Res 2022.3.0 and CBECC 2022.3.0 contain no new 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 2022.3.0 and CBECC 2022.3.0 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 2022.3.0 and CBECC 2022.3.0 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).