

M e m o r a n d u m

To: Drew Bohan
Executive Director

Date: February 26, 2019

Telephone: (916) 654-5013

From: **Kristen Driskell**
Deputy Director, Efficiency Division
California Energy Commission
1516 Ninth Street
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Subject: **EXECUTIVE DIRECTOR RECOMMENDATION THAT THE CALIFORNIA ENERGY COMMISSION FINDS THAT THE COUNTY OF LOS ANGELES' LOCALLY ADOPTED ENERGY STANDARDS WILL REQUIRE REDUCTION OF ENERGY CONSUMPTION LEVELS PERMITTED BY THE 2016 BUILDING ENERGY EFFICIENCY STANDARDS**

Summary of Item

The California Public Resources Code and the *2016 Building Energy Efficiency Standards*¹ (2016 Energy Standards) establish a process that allows local governmental agencies, such as cities or counties, to adopt and enforce local energy standards for newly constructed buildings, additions, alterations, and repairs to existing buildings if the California Energy Commission finds that the local energy standards will require buildings to be designed to consume less energy than permitted by the 2016 Energy Standards. This process, described in Public Resources Code Section 25402.1(h)(2), and Section 10-106(b) of the 2016 Energy Standards, requires local governmental agencies to apply to the Energy Commission for this finding.

The local governmental agency must submit an application to the executive director of the Energy Commission, which must be approved before the local energy standards may be enforced. This application must contain:

- 1) The proposed energy standards.
- 2) The local governmental agency's findings and supporting analyses on the energy-savings and cost-effectiveness of the proposed energy standards.
- 3) A statement or finding by the local government agency that the local energy standards will require buildings to be designed to save energy when compared to levels permitted by the California Code of Regulations, Title 24, Part 6.
- 4) Any findings, determinations, declarations or reports, including any negative declaration or environmental impact report, required pursuant to the California Environmental Quality Act (CEQA), Public Resources Code, Section 21000 et seq. (2016 Energy Standards, § 10-106(b).).

¹ California Code of Regulations, Title 24, Part 1, Chapter 10, and Part 6.

The executive director must submit to the Energy Commission a written recommendation on the application after determining that the application is complete, making the complete application package available to interested parties, and providing a 60-day public comment period. (2016 Energy Standards, § 10-110(a) and (d).) The complete application package, any additional information considered by the executive director, and the executive director's recommendation shall be placed on the consent calendar and considered at the next business meeting after submission of the executive director's recommendation. (2016 Energy Standards, § 10-110(e).) The matter may be removed from the consent calendar at the request of any person. (*Ibid.*)

In reviewing the application, the Energy Commission must find whether the locally adopted energy standards will require a reduction of energy consumption beyond that permitted by the 2016 Energy Standards. (Public Resources Code § 25402.1(h)(2); 2016 Energy Standards, § 10-106(a).).

The County of Los Angeles has submitted a complete application package, including Ordinance 2018-0039, requiring supplemental green building standards mandating more stringent cool roof requirements for newly constructed buildings as well as for alterations and additions to existing buildings, subject to specified exemptions. These cool roof requirements are equal to or more stringent for the covered buildings than the statewide mandatory requirements set forth in Title 24 Part 6, however buildings exempted under this local ordinance will still be required to meet the minimum mandatory standards in Title 24 Part 6.

A proposed executive director recommendation is attached.

Summary of Staff's Application Review

As detailed in the attached executive director recommendation, staff reviewed the County of Los Angeles' application for its proposed local energy standards in Ordinance 2018-0039. Staff found that the package contains all of the components required by Section 10-106(b) of the 2016 Energy Standards.

Specifically, the county's application contains:

- 1) Proposed energy standards.
- 2) Findings and supported analysis on the energy savings and cost effectiveness of the proposed energy standards.
- 3) Finding that the local energy standards will require buildings to be designed to save energy when compared to levels permitted by the California Code of Regulations, Title 24, Part 6.
- 4) CEQA determination.

Staff made the County of Los Angeles' complete application available to interested parties and provided a 60-day public comment period for the complete applications, including the local ordinance and cost effectiveness analysis. (2016 Energy Standards, § 10-110(a).) The applications were posted on the webpage for Local

Ordinances Exceeding the *2016 Energy Standards*². The submitted application was also docketed on the Energy Commission's website under 16-BSTD-07 for a 60-day public comment period, which concluded on February 25, 2019. The complete application, including the local ordinance and cost effectiveness analysis, will also be made available on the Energy Commission website as part of the back-up materials for the proposed agenda item when presented to the Energy Commission for action.

In addition, staff reviewed the application to determine whether the standards will require the diminution of energy consumption levels permitted by the 2016 Energy Standards.

Project Manager

Ingrid Neumann, Building Standards Office

Staff Position

Staff recommends that the Energy Commission find that the County of Los Angeles' proposed energy standards will require the reduction of energy consumption levels permitted by the 2016 Energy Standards. (Public Resources Code, § 25402.1(h)(2); 2016 Energy Standards, § 10-106(a).).

The County of Los Angeles has been informed that the approved ordinance will be enforceable during the time that the 2016 Energy Standards are effective. If the statewide standards are subsequently revised or amended (as they are regularly on a three-year cycle) the ordinance will no longer be enforceable. If the County wishes to enforce either of these local energy standards, or other local energy standards revised in response to the updated statewide standards, pursuant to Public Resources Code Section 25402.1(h)(2), and Section 10-106 of the 2016 Energy Standards, the County must submit a new application.

Oral Presentation Outline

Staff will be available at the March 12, 2019, business meeting to provide a brief summary if requested and to answer questions.

Business Meeting Participants

Ingrid Neumann, Building Standards Office

Executive Director Action Requested

Recommendation by the executive director that the Energy Commission find that the County of Los Angeles' locally adopted energy standards will require the diminution of energy consumption levels permitted by the 2016 Energy Standards.

Commission Action Requested

² <http://www.energy.ca.gov/title24/2016standards/ordinances/>.

Finding by the Energy Commission that the County of Los Angeles' locally adopted energy standards will require the diminution of energy consumption levels permitted by the 2016 Energy Standards.

STATE OF CALIFORNIA

Energy Resources Conservation
And Development Commission

In the matter of	)	RESOLUTION NO: 19-03-12-04
)	
<i>County of Los Angeles' Locally</i>	)	Executive Director's
<i>Adopted Energy Standards</i>	)	Recommendation that the
	)	California Energy Commission Find
	)	that County of Los Angeles' Locally
	)	Adopted Energy Standards Will
	)	Require the Diminution of Energy
	)	Consumption Levels Permitted by
	)	the <i>2016 Building Energy</i>
	)	<i>Efficiency Standards</i>
)	
	)	February 26, 2019

I. EXECUTIVE SUMMARY

Local governmental agencies may adopt and enforce local energy standards provided the California Energy Commission finds that the standards will require buildings to be designed to consume less energy than permitted by the *2016 Building Energy Efficiency Standards*¹ (2016 Energy Standards). (2016 Energy Standards, § 10-106(a).) The local governmental agency must submit an application to the executive director of the Energy Commission, which must be approved before the local energy standards may be enforced. (2016 Energy Standards, § 10-106(b).) This application must contain:

- 1) The proposed energy standards.
- 2) The local governmental agency's findings and supporting analyses on the energy-savings and cost-effectiveness of the proposed energy standards.
- 3) A statement or finding by the local government agency that the local energy standards will require buildings to be designed to save energy when compared to levels permitted by the California Code of Regulations, Title 24, Part 6.
- 4) Any findings, determinations, declarations or reports, including any negative declaration or environmental impact report, required pursuant to the California Environmental Quality Act (CEQA), Public Resources Code, Section 21000 et seq. (2016 Energy Standards, § 10-106(b).).

The County of Los Angeles has submitted a complete application package, including Ordinance 2018-0039, requiring supplemental green building standards mandating more stringent cool roof requirements for newly constructed buildings as well as for alterations and additions to existing buildings, subject to specified exemptions. These cool roof requirements are equal to or more stringent for the covered buildings than the statewide mandatory

¹ California Code of Regulations, Title 24, Part 1, Chapter 10, and Part 6.

requirements set forth in Title 24 Part 6, however buildings exempted under this local ordinance will still be required to meet the minimum mandatory standards in Title 24 Part 6.

Staff made the County of Los Angeles' complete application available to interested parties and provided a 60-day public comment period for the complete application, including the local ordinance and cost effectiveness analysis. (2016 Energy Standards, § 10-110(a).) The applications were posted on the Energy Commission webpage for local ordinances exceeding the 2016 Energy Standards. The submitted applications were also docketed on the Energy Commission's website under 16-BSTD-07 for a 60-day public comment period, which concluded on February 25, 2019. The complete application, including the local ordinance and cost effectiveness analysis, will also be made available on the Energy Commission website as part of the back-up materials for the proposed agenda item when presented to the Energy Commission for action.

The County of Los Angeles' application contains the necessary components required by Section 10-106(b) of the 2016 Energy Standards. Also, the County of Los Angeles' locally adopted energy standards will require the diminution of energy consumption levels permitted by the 2016 Energy Standards. (Public Resources Code, § 25402.1(h)(2); 2016 Energy Standards, § 10-106(a).).

Therefore, I recommend that the Energy Commission find that the County of Los Angeles' locally adopted energy standards will require the diminution of energy consumption levels permitted by the 2016 Energy Standards.

II. THE COUNTY OF LOS ANGELES' APPLICATION MEETS THE REQUIREMENTS OF SECTION 10-106(B) OF THE 2016 ENERGY STANDARDS

1. Proposed energy standards.

On October 16, 2018, the County of Los Angeles' County Council approved the adoption of Ordinance 2018-0039. The Ordinance requires supplemental green building standards mandating more stringent cool roof requirements for newly constructed buildings as well as for alterations and additions to existing buildings, subject to specified exemptions. These cool roof requirements are equal to or more stringent for the covered buildings than the statewide mandatory requirements set forth in Title 24 Part 6, however buildings exempted under this local ordinance will still be required to meet the minimum mandatory standards in Title 24 Part 6.

Section two of the ordinance requires newly constructed nonresidential buildings 25,000 square feet or greater to comply with CALGreen Tier 2 cool roof targets. The targets differ for high rise residential building above seven stories and other non-residential buildings.

Newly constructed nonresidential buildings, excluding high rise residential and hotel/motels, less than 25,000 square feet and additions and alterations to these types of nonresidential buildings are also required to meet CALGreen Tier 2 cool roof targets as per Sections 5 and 6 of the Ordinance. Section 5 provides exceptions for certain types of roof repairs, installation

of building-integrated photovoltaics, certain vegetated (green) roofs, roof replacements or additions of less than fifty percent of total roof area.

Newly constructed residential buildings as well as newly constructed high rise residential and hotel/motels less than 25,000 square feet, as well as additions and alterations to these types of buildings are required to meet cool roof targets as per Sections 3 and 4 of the Ordinance. Section 4 provides the cool roof targets and Section 3 provides exceptions for certain types of roof repairs, installation of building-integrated photovoltaics, certain vegetated (green) roofs, roof replacements or additions of less than fifty percent of total roof area, and steep sloped roofs on high rise multifamily buildings in climate zone 16.

Ordinance 2018-0039, adopts and makes mandatory many of the voluntary cool roof requirements as specified above from the 2016 Green Building Standards Code (Title 24 Part 11) or CALGreen). These standards will help reduce the urban heat island effect, improve air quality, and decrease the energy consumption of buildings.

The cost effectiveness study was heard and approved on the same date.

The County of Los Angeles submitted a complete application to the Energy Commission, which was received on December 26, 2018, and posted for the 60-day public comment period on December 27, 2018, as required by Section 10-110(a) of the 2016 Energy Standards. The comment period ended February 25, 2019, and no comments were received. The County of Los Angeles is required to submit its proposed energy standards to the Energy Commission as part of its complete application. (Public Resources Code, § 25402.1(h)(2); 2016 Energy Standards, § 10-106(b)(1).)

2. Applicant's energy-savings and cost-effectiveness determinations and supporting analyses.

The County of Los Angeles submitted its determinations and supporting analysis on the energy savings and cost effectiveness of the proposed energy standards with its completed application, as required by Section 10-106(b)(2) of the 2016 Energy Standards. Staff confirmed that these materials were made publicly available and were considered by the County of Los Angeles County Council as a part of the adoption of the local ordinances. The Energy Commission does not independently re-analyze applicants' determinations of cost effectiveness where they have been subject to a public adoption process.

The County of Los Angeles staff assessed and adopted the cost effectiveness study that was submitted with the county's completed application. The County of Los Angeles determined that the requirement of additional efficiency measures as described in Ordinance 2018-0039 provide energy efficiency benefits while not incurring any additional costs; the cost of a cool roof was found to be commensurate with the cost of a conventional roof.

The county's determinations of cost effectiveness were adopted by the governing body of the County at a public meeting of the County council on October 16, 2018. (Public Resources Code, § 25402.1(h)(2).)

3. Applicant's finding that the local energy standards will require buildings to be designed to save energy when compared to levels permitted by Title 24, Part 6.

Section 10-106(b)(3) requires local governmental agencies to submit a statement or finding "that the local energy standards will require buildings to be designed to consume no more energy than permitted by Part 6." The statement of increased stringency was provided in cover letter dated December 26, 2018, by Mark Pestrella, County of Los Angeles Director of Public Works, submitted to the Energy Commission.

4. California Environmental Quality Act Assessment.

The last requirement of Section 10-106(b) of the 2016 Energy Standards concerns the CEQA, Public Resources Code Section 21000 et seq. Section 10-106(b)(4) requires the County to submit, with its application, "any findings, determinations, declarations or reports, including any negative declaration or environmental impact report, required pursuant to [CEQA]."

In adopting local ordinances such as this one, the County is required to comply with CEQA. (See Public Resources Code, §§ 21080(a), 21063; California Code Regulations, Title 14, §§ 15020-15022, 15379.) Even though the Energy Commission has the authority to approve local energy standards under Section 25402.1(h)(2) of the Public Resources Code, and Section 10-106 of the 2016 Energy Standards, the lead agency for local energy standards is the County because it will implement and enforce these standards (California Code Regulations, Title 14, §§ 15050, 15051).

The Energy Commission staff has reviewed and considered County of Los Angeles' CEQA findings in the cover letter submitted with the approval application. The County of Los Angeles found with certainty that implementation of the ordinance is intended for the protection of the environment and therefore the adoption of the ordinance was categorically exempt from the CEQA codified in Public Resources Code Section 21000 et seq. CEQA, pursuant to both Sections 15061(b)(3) of the CEQA Guidelines, codified in Title 14 of the California Code of Regulations. Energy Commission staff will file a notice of Exemption on behalf of the County of Los Angeles.

The Energy Commission found, on June 10, 2015, that the 2016 revision of the Energy Standards would have no net adverse impact on the environment and therefore adopted a negative declaration for the 2016 Energy Standards. (See Notice of Determination at http://www.energy.ca.gov/title24/2016standards/rulemaking/documents/15-day_language/2015-06-11_Notice_of_Determination.pdf.)

Since all locally adopted standards must require the diminution of energy consumption levels permitted by the 2016 Energy Standards, there is no possibility that any ordinance that proposes to exceed such standards will have a significant effect on the environment. Therefore, approving the County of Los Angeles' application to enforce its locally adopted energy standards is exempt under the "common sense" provision of CEQA. (California Code Regulations Title 14, § 15061(b)(3).) Also, a finding by the Energy Commission that the County of Los Angeles' locally adopted energy standards will require the diminution of energy

consumption levels permitted by the 2016 Energy Standards is a ministerial project and is therefore exempt from CEQA pursuant to Public Resources Code Section 21080(b)(1) and Section 15268 of Title 14 of the California Code of Regulations.

III. THE COUNTY OF LOS ANGELES' LOCALLY ADOPTED ENERGY STANDARDS WILL REQUIRE THE DIMINUTION OF ENERGY CONSUMPTION LEVELS PERMITTED BY THE 2016 ENERGY STANDARDS

The Energy Commission is required to find whether the county's locally adopted energy standards will require the diminution of energy consumption levels permitted by the 2016 Energy Standards. (Public Resources Code, § 25402.1(h)(2); see also 2016 Energy Standards, § 10-106(a).)

Requiring increased energy efficiency ensures a diminution of energy consumption. The proposed energy provisions do not otherwise modify any of the requirements in Title 24, Part 6. The modifications to the energy provisions proposed by the County therefore require buildings to be designed to consume no more energy than permitted by the 2016 Energy Standards.

IV. CONCLUSION

After considering the application, I determined that the County of Los Angeles' application contains the necessary components required by Section 10-106(b) of the 2016 Energy Standards. I also determined that the County of Los Angeles' locally adopted energy standards will require the diminution of energy consumption levels permitted by the 2016 Energy Standards. (Public Resources Code, § 25402.1(h)(2); 2016 Energy Standards, § 10-106(a).)

Accordingly, I recommend that the Energy Commission find that the County of Los Angeles' locally adopted energy standards will require the diminution of energy consumption levels permitted by the 2016 Energy Standards.

DREW BOHAN
Executive Director
California Energy Commission

Date

STATE OF CALIFORNIA

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION OF THE CALIFORNIA ENERGY COMMISSION FINDING THAT
COUNTY OF LOS ANGELES' LOCALLY ADOPTED ENERGY STANDARDS
REQUIRE THE DIMINUTION OF ENERGY CONSUMPTION LEVELS PERMITTED BY
THE *2016 BUILDING ENERGY EFFICIENCY STANDARDS*

WHEREAS, on October 16, 2018, the County of Los Angeles adopted Ordinance No. 2018-0039 to establish locally adopted energy standards; and

WHEREAS, Public Resources Code Section 25402.1(h)(2), and California Code of Regulations, Title 24, Section 10-106(b), establish a process for local governments to apply to the California Energy Commission if they wish to enforce locally adopted energy standards; and

WHEREAS, the County of Los Angeles submitted an application to the Energy Commission for the ordinance that met all of the documentation requirements pursuant to Public Resources Code Section 25402.1(h)(2), and California Code of Regulations, Title 24, Section 10-106(b), on December 26, 2018; and

WHEREAS, the County of Los Angeles, in its application to the Energy Commission, indicated that implementation of the ordinance is intended for the protection of the environment and therefore the adoption of the ordinance was exempt from the California Environmental Quality Act (CEQA) codified in California Public Resources Code Section 21000 et seq. CEQA, pursuant to Sections 15061(b)(3) and 15308 of the CEQA Guidelines, codified in Title 14 of the California Code of Regulations; and

WHEREAS, the Energy Commission has analyzed whether the ordinance will require the diminution of energy consumption levels permitted by the *2016 Building Energy Efficiency Standards* (2016 Energy Standards); and

WHEREAS, the Energy Commission has considered the County of Los Angeles' application, the executive director's recommendation, and all comments submitted on the application.

THEREFORE BE IT RESOLVED, the Energy Commission finds that the County of Los Angeles' Ordinance will require the diminution of energy consumption levels permitted by the 2016 Energy Standards; and

THEREFORE BE IT FURTHER RESOLVED that the Energy Commission finds:

- (1) That there is no possibility that approving the County of Los Angeles' application to enforce its locally adopted energy standards will have a significant effect on the environment, and is therefore exempt from CEQA pursuant to Section 15061(b)(3) and 15308 of Title 14 of the California Code of Regulations; and
- (2) That its determination that the County of Los Angeles' locally adopted energy standards will require buildings to be designed to consume less energy than permitted by the 2016 Energy Standards is a ministerial project and is therefore exempt from CEQA pursuant to Public Resources Code Section 21080(b)(1) and Section 15268 of Title 14 of the California Code of Regulations.

THEREFORE BE IT FURTHER RESOLVED, the Energy Commission applauds the County of Los Angeles for seeking to achieve additional energy demand reductions, energy savings and other benefits exceeding those of the 2016 Energy Standards; and

THEREFORE BE IT FURTHER RESOLVED, that on March 12, 2019, the Energy Commission approves the County of Los Angeles' application to enforce its locally adopted energy standards; and

THEREFORE BE IT FURTHER RESOLVED, that the Energy Commission directs the executive director to take all actions necessary to implement this resolution, including but not limited to filing the appropriate notices with the Office of Planning and Research. (See, e.g., California Code Regulations., Title 14, § 15062.)

CERTIFICATION

The undersigned Secretariat to the commission 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 Energy Commission held on March 12, 2019.

AYE:

NAY:

ABSENT:

ABSTAIN:

Cody Goldthrite
Secretariat