



**California Energy Commission
November 12th, 2025 Business Meeting
Backup Materials for Building Energy Use Benchmarking and Disclosure Program
- Proposed Regulatory Language Changes**

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

1. Proposed Resolution, attached below.
 - Express Terms Proposed Changes for California Code of Regulations, Title 20, Division 2, Chapter 4, Article 9, attached below, and available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=266099&DocumentContentId=103118>
2. California Environmental Quality Act (CEQA) Memo Basis for finding exemption, attached below.

For the complete record, please visit:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=25-OIR-01>.

To stay informed about this project and receive documents as they are filed, please subscribe to the proceeding Topic, which can be accessed here:

<https://public.govdelivery.com/accounts/CNRA/signup/31895>. 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 ADOPTING AMENDMENTS TO BUILDING ENERGY BENCHMARKING
REGULATIONS**

WHEREAS, that the State Energy Resources Conservation and Development Commission (CEC) adopts the staff California Environmental Quality Act (CEQA) findings contained in the CEQA memorandum; and

WHEREAS, pursuant to AB 102 (Ting 2023, Section 68), the Building Energy Benchmarking Program has an Administrative Procedure Act exemption allowing for the adoption of regulations, guidelines, or other standards for the program at a commissioner business meeting after at least one public workshop; and

WHEREAS, on September 23, 2025, CEC staff noticed a public workshop on the proposed regulatory update to the Building Energy Benchmarking Regulations and published the proposed regulatory changes; and

WHEREAS, on October 13, 2025, the CEC held a public workshop on the proposed regulatory update; and

WHEREAS, after the public workshop, the CEC had a ten-day public comment period on the proposed regulations; and

THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:

With regard to CEQA:

- The CEC has considered the application of CEQA to the proposed regulations and concluded that the proposed regulations:
 - (1) are not a “project” subject to CEQA pursuant to CEQA Guidelines, section 15378 (b)(2) and (5), in that they deal with general policy and procedural activities or organizational and administrative activities and do not involve commitment to any specific project that may result in a direct or indirect physical change in the environment;
 - (2) are exempt from CEQA because they fall within the so-called “common sense” exemption pursuant to CEQA Guidelines, section 15061(b)(3), which indicates that CEQA only applies to projects that have a “significant effect on the environment” as defined in Public Resources Code section 21068 and in CEQA Guidelines, section 15382, as being a substantial, or potentially substantial, adverse change in the environment;

- (3) are categorically exempt from CEQA as a data collection activity that does not result in a serious or major disturbance to an environmental resource pursuant to CEQA Guidelines, section 15306; and
- (4) are categorically exempt from CEQA as an action taken to maintain natural resources pursuant to CEQA Guidelines, section 15307; and
- (5) are categorically exempt from CEQA as an action taken to protect the environment pursuant to CEQA Guidelines, section 15308.

With regard to the Administrative Procedure Act:

- The proposed regulations are exempt pursuant to AB 102 (Ting 2023, Section 68) provided at least one public workshop was held. A public workshop was held on October 13, 2025.

THEREFORE, BE IT RESOLVED, based upon the entire record of this proceeding, the CEC hereby adopts the described regulations. We take this action under the authority of Public Resources Code section 25213, 25218(e), and 25402.10; and to implement, interpret, and make specific Public Resources Code sections 25116 and 25402.10; and

FURTHER BE IT RESOLVED, that documents and other materials that constitute the rulemaking record can be found at the CEC, 715 P Street, Sacramento, California, 95814 in the custody of the Docket Unit and online in [Docket Number 25-OIR-01](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=25-OIR-01), <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=25-OIR-01>; and

FURTHER BE IT RESOLVED, that, the CEC delegates the authority and directs CEC staff to take, on behalf of the CEC, all actions reasonably necessary to have the proposed regulations go into effect, including but not limited to making any appropriate non-substantive changes to the regulations; preparing all appropriate documents; compiling and submitting the rulemaking file to the Office of Administrative Law (OAL); making any changes to the rulemaking file required by OAL; and filing a notice of exemption with the Office of Planning and Research. This delegation explicitly includes authority for the Executive Director or Chief Deputy Director to sign the Form 400 on behalf of the CEC.

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 November 12, 2025.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated:

Kim Todd
Secretariat

Memorandum

To: Docket 25-OIR-01

Date: **November 12, 2025**

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

Subject: Basis for Finding the Proposed Building Energy Benchmarking Regulations Exempt under the California Environmental Quality Act

I. CEQA

The California Environmental Quality Act (CEQA) (Public Resources Code (PRC) section 21000 *et seq.*; *see also* CEQA Guidelines, California Code Regulations (CCR), Title 14, section 15000 *et seq.*) requires state agencies consider the environmental impact of their discretionary decisions and determine whether or not CEQA applies. Additionally, CEQA allows for certain projects to be exempted from its requirements. Of relevance here, and discussed further below, is a discussion of CEQA applicability as well as the Class 6, 7, and 8 exemptions (CCR, Title 14, sections 15306, 15307, and 15308), and the common sense exemption (CCR, Title 14, section 15061(b)(3)).

II. The CEC's Building Energy Benchmarking Program

The Warren-Alquist Act established the California Energy Commission (CEC) as California's primary energy policy and planning agency. Most, if not all, actions taken by the CEC are taken to protect the environment and natural resources, either in the near term with, for example, specific regulatory actions or the long term with, for example, long-term planning and investments in research. The Legislature over the years has made specific findings concluding CEC's work in regulating the energy sector is imperative for environmental protection. Notably, the Legislature has found the following: "it is the responsibility of state government to ensure that a reliable supply of electrical energy is maintained at a level consistent with the need for such energy for protection of public health and safety, for promotion of general welfare, and for environmental quality protection" (PRC, section 25001); "the present rapid rate of growth in demand for electric energy is in part due to wasteful, uneconomic, inefficient, and unnecessary uses of power and a continuation of this trend will result in serious depletion or irreversible commitment of energy, land and water resources, and potential threats to the state's environmental quality (PRC, section 25002); and "[i]t is further the policy of the state and the intent of the Legislature to employ a range of measures to reduce wasteful, uneconomical, and unnecessary uses of energy, thereby reducing the rate of growth of energy consumption, prudently conserve energy resources, and

assure statewide environmental, public safety, and land use goals.” (PRC, section 25007).

With regard to this specific project, Building Energy Benchmarking, section 25402.10 of the PRC authorizes and mandates the CEC to “adopt regulations providing for the delivery to the commission and public disclosure of benchmarking of energy use for covered buildings....” The legislature intended to “support strategies that enhance energy efficiency. Building owners should have access to their buildings’ energy usage information, which enables understanding of a building’s energy usage for improved building management and investment decisions. It is the intent of the Legislature that the State Energy Resources Conservation and Development Commission create a benchmarking and disclosure program through which building owners of commercial and multifamily buildings above 50,000 square feet gross floor area will better understand their energy consumption through standardized energy use metrics.” AB 802 (Williams, 2015).

In 2017, the CEC promulgated regulations for the Building Energy Benchmarking Program. The main objective of the Building Energy Benchmarking regulations is to identify and provide for the collection of energy usage data for the calculation of benchmarking energy use including public disclosure requirements.

Actions taken under the Building Energy Benchmarking Program are designed to benefit the environment and natural resources by identifying opportunities for reducing energy demand in the state, thereby reducing the need to procure and generate electricity and natural gas.

III. The Proposed Action

The goal of this action is to approve the amended regulations for the Building Energy Benchmarking Program.

The proposed regulations would provide additional flexibility to building owners and the CEC in allowing for exemptions and extensions to the reporting requirements due to unforeseen circumstances like natural disasters.

This activity is consistent with the requirements of the Building Energy Benchmarking statute and effectuates the purpose behind the Building Energy Benchmarking program.

The CEC’s approval of the compliance plans would not cause a direct or reasonably foreseeable indirect physical change in the environment.

IV. Applicability of CEQA

For purposes of complying with the California Environmental Quality Act (“CEQA,” Pub. Resources Code, § 21000 *et seq.*), staff recommends the CEC find that the approval of the proposed regulations is not a project under CEQA. California Code of Regulations, title 14, section 15060 states, in part, that a lead agency must first determine whether

an activity is subject to CEQA and that an activity is not subject to CEQA if the activity is not a project as defined in section 15378. CEQA Guidelines section 15378 states that an activity is a project if it has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

In the case of the CEC approving the proposed regulations, this action does not result in any direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment but, rather, approves the adoption of regulations related to data collection. Therefore, CEQA is not applicable to the CEC's approval of the proposed regulations. Furthermore, this action consists of the CEC's approval of the proposed regulations which is also excluded from the definition of a project as a continuing administrative or maintenance activity and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. CEQA Guidelines, section 15378(b)(2) and (5).

Additionally, as discussed below, CEQA exemptions apply should approval of the proposed regulations be considered a project pursuant to CEQA.

V. Class 6, 7, and 8 Exemptions

CCR, Title 14, section 15306, exempts actions taken by a regulatory agency consisting of "basic data collection ... which do not result in a serious or major disturbance to an environmental resource." Approval of these proposed regulations that regulate data collection for the Building Energy Benchmarking program does not result in a serious or major disturbance to an environmental resource and therefore falls within this categorical exemption.

CCR, Title 14, sections 15307 and 15308, exempt actions taken by a regulatory agency 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." Approval of the proposed regulations will have no significant effect on the environment and falls squarely within the categorical exemptions of sections 15307 and 15308. The approval of the regulations is being undertaken in furtherance of the CEC's Building Energy Benchmarking program. This action is taken to assure the maintenance, restoration, or enhancement of one or more natural resources and to assure the maintenance, restoration, enhancement, or protection of the environment. Further, none of the exceptions to exemptions listed in CEQA Guidelines section 15300.2 apply to this project. Additionally, no unusual circumstances have been identified that could lead to the reasonable possibility that the activity will have a significant effect on the environment. For these reasons, this project is exempt from CEQA.

VI. Common Sense Exemption

The approval of the proposed regulations is also exempt from CEQA under the common sense exemption. CEQA only applies to projects that have the potential for causing a significant effect on the environment. (CCR, 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. (PRC, section 21068; CCR, Title 14, section 15382.) The approval of the proposed regulations will result in changes to how the Building Energy Benchmarking program is administered. No significant adverse impacts to the environment have been identified as resulting from this action. For these reasons, adoption of the amendments to the CEC’s regulations is not subject to CEQA under the commonsense exemption of section 15061(b)(3).

VII. Conclusion

As discussed above, approval of the proposed Building Energy Benchmarking regulations is not a project for purposes of CEQA, and therefore, CEQA is not applicable to this action.

In the alternative, approval of the proposed Building Energy Benchmarking regulations is a regulatory action related to data collection that is categorically exempt from CEQA review under section 15306 of the CEQA Guidelines. Additionally, approval of the proposed regulations would protect natural resources and the environment and is, therefore, categorically exempt from further CEQA review under sections 15307 and 15308 of the CEQA Guidelines. Additionally, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and, therefore, this project is exempt pursuant to the commonsense exemption under section 15061(b)(3) of the CEQA Guidelines.