

## DOCKETED

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<b>Project Title:</b>	2016 Existing Buildings Energy Efficiency Action Plan
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<b>Document Title:</b>	Exemption of Adopting Existing Buildings Energy Action Plan 2016 Update from the California Environmental Quality Act
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# Memorandum

To: CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
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Date: November 28, 2016

From: **Galen Lemei, Senior Attorney**  
**Office of the Chief Counsel**

Subject: **Exemption of Adopting Existing Buildings Energy Efficiency Action Plan, 2016 Update from the California Environmental Quality Act, Docket No. 16-EBP-01**

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The California Environmental Quality Act (CEQA), Public Resources Code, section 21000, *et seq.*, and its implementing regulations, the CEQA Guidelines in the California Code of Regulations, title 14, section 15000, *et seq.*, requires that state agencies consider the environmental impact of their discretionary decisions. However, an activity is not subject to CEQA if: (1) the activity does not involve the exercise of discretionary powers by a public agency, (2) the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, or (3) the activity is not a “project” as defined in section 21065 of the Act and section 15378 of the Guidelines. Furthermore, CEQA only applies to projects that have the potential for causing a significant effect on the environment. (Cal. Code Regs., tit. 14, § 15061(b)(3).) A significant effect on the environment is defined as a substantial, or a potentially substantial, adverse change in the environment. (Pub. Resources Code, § 21068; Cal. Code Regs., tit. 14, § 15382.)

The 2016 Existing Buildings Energy Efficiency Action Plan Update (“2016 Plan Update”), dated December 2016, Document Number CEC-400-2016-023SD, describes in broad, general terms the kinds of actions the Energy Commission will consider taking and the program elements the Commission will consider developing, supporting, or encouraging others to take to significantly reduce the energy use of existing buildings. These programs and actions are both new and existing. They include, for example, continued development of energy- and water-efficiency regulations for new construction, appliances, and building-energy-use inspection programs, grant programs for building-energy-efficiency measures, and educational programs.

None of the activities and programs is described in detail in the 2015 Action Plan or the 2016 Plan Update (collectively “the Plan”). It is an informational planning document. Because it is informational, there are no specific actions that are mandated by the Plan, and the potential actions are described in general terms, there are no reasonably foreseeable potential changes to the environment that could be gleaned from the activities and programs described in the Plan. When the specific activities and programs contemplated are considered for action by the Energy Commission or other entities, the specific attributes will be determined that will enable the potential environmental effects to be identified and evaluated.

Accordingly, because the Plan does not require any actions to be taken at this time, or describe specific future actions to be taken, staff concludes that adopting the Plan as an informational, planning document is not a project as defined under the California Environmental Quality Act, and is not subject to the Act’s requirements because of the “common sense” exemption set forth in the California Code of Regulations, title 14, section 15061(b)(3). Further, because it is protective of the environment, it is eligible for categorical exemption from the Act in California Code of Regulations, title 14, section 15308.