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Docket Number:	24-BSTD-02
Project Title:	2025 CALGreen Rulemaking
TN #:	258549
Document Title:	CEQA Exemption Memo
Description:	This document shall serve as the basis for finding the 2025 CALGreen Rulemaking is exempt from the California Environmental Quality Act (CEQA) under the common sense exemption.
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Submitter Role:	Commission Staff
Submission Date:	8/16/2024 1:45:17 PM
Docketed Date:	8/16/2024

Memorandum

To: Docket 24-BTSD-02

Date: August 16, 2024

From: Chief Counsel's Office
California Energy Commission

Subject: Basis for Finding the 2025 CALGreen Rulemaking is Exempt from the California Environmental Quality Act under the Common Sense Exemption

I. CEQA

The California Environmental Quality Act (CEQA) (Pub. Resources Code (PRC), §21000 et seq.; see *also*, CEQA Guidelines, Cal. Code Regs. (CCR), tit. 14, §15000 et seq.) requires that state agencies consider the environmental impact of their discretionary decisions. CEQA allows for certain projects to be exempted from its requirements. Of relevance here is the common sense exemption (CCR, tit. 14, §15061(b)(3)).

II. CALGreen, Title 24, Part 11

The Warren-Alquist Act establishes the California Energy Commission (CEC) as California's primary energy policy and planning agency. Most, if not all, actions taken by the CEC are intended 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 that the CEC's work in regulating the electricity 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, §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, §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, §25007).

With regard to this specific project, Section 25402 of the PRC authorizes and mandates that the CEC adopt rules and regulations, as necessary, "to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy and water" in new residential and nonresidential buildings.

One of the ways the CEC satisfies this requirement is through the California Green Building Standards Code (CALGreen) (CCR, Title 24, Part 11) found in the California Building

Standards Code, which are adopted pursuant to Health and Safety Code Sections 18930, 18934, and 18935. As a part of the California Building Standards Code, CALGreen follows the same three-year update cycle.

III. The Proposed Action

The changes proposed in this rulemaking are updates to the voluntary energy efficiency provisions of CALGreen. These voluntary guidelines, contained in Title 24, Part 11 of the California Code of Regulations, go beyond the mandatory building energy efficiency standards in Title 24, Part 6 of the California Code of Regulations (California Energy Code). Because they are voluntary, it is unknown which jurisdictions will choose to adopt standards that exceed the minimum efficiency requirements contained in the California Energy Code and, if so, to what extent those local jurisdictions utilize the specific voluntary provisions in CALGreen.

To facilitate the adoption of reach codes at the local level, the CEC proposes to update the voluntary energy efficiency provisions of CALGreen. The proposed changes do not have regulatory effect as local jurisdictions are not compelled to use or follow these examples. The CEC proposes to adopt the following amendments:

- Introduce new sections for alterations to existing residential buildings and nonresidential buildings.
- Introduce new standards for altered space conditioning systems in existing single-family homes.
- Introduce new standards for altered pool and/or spa heating equipment in both multifamily and nonresidential existing buildings.
- Update performance compliance margins for newly constructed single-family homes.
- Introduce outdoor lighting standards for newly constructed residential buildings and residential additions.
- Update outdoor lighting standards for newly constructed nonresidential buildings and nonresidential additions.
- Remove Renewable Energy Section from the nonresidential appendix A5.
- Rename Energy Efficient Steel Framing section to Energy Efficient Framing.

Reducing energy demand via energy efficiency, if adopted by local jurisdictions, would benefit the state by slowing demand growth, reducing depletion of resources, improving reliability, minimizing costs, and mitigating threats to the state's environmental quality – that is, by directly addressing the problems the legislature observed when creating the CEC. Based on the evidence in the record, the CEC has determined that the proposed changes are necessary to provide these benefits by establishing or improving standards, including voluntary and model standards, for building energy efficiency and improving the likelihood of successful deployment of building design and construction measures that directly cause or indirectly enable improved efficiency during occupancy and operation.

IV. Common Sense Exemption

The development and adoption of the proposed amendments to CALGreen are exempt from CEQA under the common sense exemption. The common sense exception specifies that CEQA only applies to projects that have the potential for causing a significant effect on the environment. (CCR, 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, and does not

include an economic change by itself. (Pub. Resources Code, §21068; CCR, tit. 14, §15382.) The goal of the proposed amendments to CALGreen is to provide voluntary model provisions for local jurisdictions to adopt reach codes that save more energy than the mandatory California Energy Code. Therefore, there are no reasonably foreseeable direct impacts resulting from these standards and no significant adverse impacts to the environment have been identified as resulting from this action. For these reasons, adoption of the amendments to CALGreen is not subject to CEQA under the common sense exemption of Section 15061(b)(3).

VI. Conclusion

As shown above, the proposed update to CALGreen is a regulatory action that is entirely voluntary. 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 common sense exemption under Section 15061(b)(3) of the CEQA Guidelines.