

DOCKETED

Docket Number:	20-DECARB-01
Project Title:	Building Initiative for Low-Emissions Development (BUILD) Program
TN #:	241347
Document Title:	NRDC Comments - NRDC Comments on the Proposed Final Program Guidelines for BUILD
Description:	N/A
Filer:	System
Organization:	NRDC
Submitter Role:	Public
Submission Date:	1/31/2022 4:13:31 PM
Docketed Date:	1/31/2022

*Comment Received From: NRDC
Submitted On: 1/31/2022
Docket Number: 20-DECARB-01*

**NRDC Comments on the Proposed Final Program Guidelines for
BUILD**

Additional submitted attachment is included below.

**Comments of the Natural Resources Defense Council (NRDC) on the Proposed Final
Program Guidelines for the Building Initiative for Low-Emissions Development (BUILD)
Program**

Docket Number 20-DECARB-01

Submitted: January 31, 2022

Submitted by: Merrian Borgeson and Kiki Velez

On behalf of the Natural Resources Defense Council (NRDC) we respectfully submit the following comments on the proposed Building Initiative for Low-Emissions Development (BUILD) Program Proposed Final Guidelines.

I. Summary

To ensure that the BUILD Program fulfills its role as a market transformation and greenhouse gas (GHG) reduction program, we recommend the following:

- **Modify the prevailing wage language on page 33 of the Proposed Final Guidelines to note the relevant legal code and allow developers to assess and decide their appropriate course of action.** In our December 15 comments on the BUILD Program Guidelines, we wrote that the statement in the Guidelines on triggering prevailing wage will result in both unwarranted confusion and an unnecessary reduction in program participation. BUILD program participation would only trigger a new prevailing wage requirement for a developer if incentives for a project total more than \$600,000 or 2 percent of the total project cost. The CEC should modify this language, which is unchanged in the Proposed Final Guidelines, to ensure program participation and success.

- **Increase the grid flexibility kicker incentive to \$500 per unitary HPWH and clarify that the incentive is for CTA-2045 and JA13 compliance, not the CTA-2045 wi-fi module.** Given the limited availability of utility demand flexibility or load shifting services, it is not reasonable to require a CTA-2045 wi-fi module for grid flexibility at this time. As we wrote in our September 30 comments on the Preliminary BUILD Program Design, the grid flexibility kicker incentive will only be effective if it requires that HPWHs support the CTA-2045 standard (port and protocol) and the Title 24 Joint Appendix (JA) 13 specification, and that they are set up in load shifting mode at installation (grid connected or time of use). Additionally, the CEC should increase the incentive amount to cover the true cost of CTA-2045 and JA13 compliance.

II. Recommendations

- A. The statement in the Guidelines on triggering prevailing wage is misleading and will result in both unwarranted confusion and an unnecessary reduction in program participation. BUILD program participation would only trigger a new prevailing wage requirement for a developer if the incentive for a project is more than \$600,000 or 2 percent of the total project cost.**

As recommended in our December 15, 2021, comments on the BUILD Program Guidelines, the language on prevailing wage could significantly hinder BUILD Program participation and success.¹ To ensure that BUILD meets its goals of market transformation and GHG emissions reductions, the Commission should modify the language on page 33 of the Proposed Final BUILD Guidelines in line with our previous recommendations.

As we wrote in our December comments: “It is improper and unnecessary for the CEC to create additional legal hurdles for affordable housing builders. The CEC should not advise applicants on how to interpret laws nor add unnecessary requirements. Instead, the guidelines should note the relevant legal code and allow developers – who have lawyers familiar with the requirements associated with accepting various forms of public funding – to assess and decide the appropriate course of action.” We urge the Commission to act on this important issue, which would significantly reduce the impact of the BUILD Program.

- B. Increase the grid flexibility kicker incentive for HPWHs and clarify that the incentive is for CTA-2045 and JA13 compliance, not the CTA-2045 wi-fi module.**

In our September 30 comments on the Preliminary BUILD Program Design, we put forth recommendations to bring the grid flexibility kicker incentive into alignment with current technology availability and cost.² We recommended that the HPWH grid flexibility kicker incentive be modified to require CTA-2045 and JA13 compliance, rather than a CTA-2045 wi-fi module, and that the incentive amount be increased to \$500 to cover the cost of CTA-2045 and JA13 compliance.

Regarding the CTA-2045 wi-fi module requirement, we wrote that the modules would “add unnecessary costs and aren’t necessary until [utility demand flexibility] programs are widely available and adopted.” Instead, we recommended, “the incentive should require that HPWHs support the CTA-2045 standard (port and protocol) and the Joint Appendix (JA) 13 specification, and that they are set up in load shifting mode at installation (grid connected or time of use). JA 13 provides immediate grid and customer value through time-of-use load shifting, while also ensuring the HPWH is capable of being connected when a demand flexibility service becomes available locally.”

¹ [NRDC Comments on the Draft Program Guidelines for the BUILD Program](#), December 15, 2021, at 6-7

² [NRDC Comments on the Preliminary Program Design for the BUILD Program](#), September 30, 2021, at 7-8

Regarding the incentive amount, we wrote, “the incentive structure is not sufficient to cover the costs of supporting CTA-2045 and JA 13. JA 13 requires a thermostatic mixing valve and additional controls that add around \$500 of costs for unitary HPWHs given current technology.” We recommended that the Commission increase the incentive to \$500 for a load shifting capability kicker for unitary HPHWs, in line with our recommendations in the CPUC’s SGIP (Self-Generation Incentive Program) proceeding.

The current Proposed Final Guidelines retain the grid flexibility incentive flaws noted in our September comments and would be ineffective at increasing the grid benefits of HPWHs. To fix this, the Commission should modify Table 4.1 Incentive Level for Technologies to provide “\$500 per unitary HPWH with CTA-2045 and JA13 compliance.”³ The Commission should similarly modify Table B-3 Eligible Technologies for BUILD Kicker Incentives in line with the recommendations above.

III. Conclusion

We appreciate the opportunity to comment on the Proposed Final Guidelines for the BUILD Program. We look forward to working with the CEC and stakeholders to deploy an effective and equitable BUILD program that helps put California on the path to safe, healthy, and decarbonized buildings.

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³ BUILD Proposed Final Guidelines (Clean Version) at 16.