

## MEMORANDUM

TO: Docket 26-BSTD-01

FROM: Will Vicent, Deputy Director, Building Standards

SUBJECT: Basis for finding that the action of approving AHAM's bathroom exhaust fan testing and certification program as an alternative procedure for Energy Code compliance is not a project and is otherwise exempt from the California Environmental Quality Act under the Common-Sense Exemption.

DATE: February 25, 2026

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### I. California Environmental Quality Act (CEQA)

The California Environmental Quality Act (CEQA) Public Resources Code (PRC) sections 21000 *et seq.*, see also CEQA Guidelines, California Code of Regulations (CCR), Title 14, sections 15000 *et seq.*) requires that state agencies consider the environmental impact of certain discretionary decisions. CEQA allows certain projects to be exempted from its requirements. Of relevance here, and discussed further below, is the common-sense exemption (CCR, Title 14, section 15061(b)(3)).

### II. Alternative Procedures for Energy Code Compliance (Title 24, Section 10-109(h))

The California Energy Commission (CEC) adopts and regularly updates regulations for new construction, additions, and alterations to residential and nonresidential buildings, which are contained in California Code of Regulations, Parts 1 and 6 (the California Energy Code). These regulations go through an extensive public process and are adopted at a CEC business meeting before going into effect.

Part 1 of the Energy Code includes administrative regulations for implementation. In certain circumstances, interested parties or the CEC may identify alternative procedures that meet the minimum requirements of the Energy Code, but that require additional regulatory action to ensure compliance and consistency with the Energy Code. In these situations, section 10-109(h) of the 2025 Energy Code states that "In addition to the procedures and protocols identified in Sections 10-109(c), 10-116 and the Reference Appendices, the CEC may authorize alternative procedures that demonstrate compliance with Part 6."

### III. The Proposed Action

On December 18, 2025, the Association of Home Appliance Manufacturers (AHAM) submitted to the CEC an application for CEC approval of AHAM's bathroom exhaust fan testing and certification program to meet the requirements for manufacturer ratings of airflow for local mechanical exhaust fans specified by the 2025 Energy Code. AHAM submitted documentation to the CEC to demonstrate that their certification program for

bathroom exhaust fans, including use of the AHAM Verifide® Mark, meets the requirements of ASHRAE 62.2-2022, Section 7.1. On January 31, 2026, AHAM submitted an updated application to the CEC clarifying the scope of their request included both CCR, Title 24, Section 150.0(o)1G for single-family buildings and Section 160.2(b)2Avi for multifamily buildings. The CEC provided a copy of the updated application to interested parties on February 3, 2026, and accepted comments through February 19, 2026. No comments were received.

CEC staff reviewed the application submitted on January 31, 2026, including supporting analysis, and all written comments submitted. CEC staff's analysis confirmed that AHAM's bathroom exhaust fan testing and certification program meets the minimum requirements of the 2025 Energy Code. Therefore, CEC staff and the Executive Director recommended the CEC approve AHAM's program as an alternative procedure to demonstrate compliance with the local mechanical exhaust system rating requirements of the 2025 Energy Code, Section 150.0(o)1G and Section 160.2(b)2Avi, consistent with Section 10-109(h). The CEC is considering making findings regarding AHAM's application to be approved as an alternative procedure at the CEC's March 12, 2026, Business Meeting.

#### **IV. CEC findings regarding AHAM's Application are not a CEQA project**

A "project" under CEQA is defined as the "whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (CCR, Title 14, section 15378(a)). The CEC's findings regarding AHAM's application do not constitute a "project" under CEQA since it is not an activity that may cause a direct or reasonably foreseeable indirect physical change to the environment.

In its findings approving AHAM's application to establish an alternative procedure, the CEC does not change the minimum requirements of the 2025 Energy Code. Instead, CEC is approving a voluntary alternative compliance pathway that guarantees, at least, the same action as already required by the regulations. The CEC's actions in approving an application on its own do not amount to actions that may cause a direct or reasonably foreseeable indirect physical change to the environment, as provided by the CEQA definition for a "project" (CCR, Title 14, section 15378(a)). Accordingly, the CEC's actions are not a "project" for purposes of CEQA.

#### **V. If CEC's findings regarding AHAM's alternative procedure were considered a project, they are exempt from CEQA under the Common-Sense Exemption**

Even if considered a project under CEQA, the CEC's approved findings in accordance with section 10-109(h) are exempt from CEQA under the Common-Sense Exemption. The Common-Sense Exemption states that, "Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA" (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 (Public Resources Code, section 21068; CCR, Title 14, section 15382).

The Common-Sense Exemption would apply as it can be seen with certainty that there is no possibility that the CEC’s findings regarding AHAM’s applications will have a significant effect on the environment (CCR, Title 14, sections 15061(b)(3) and 15061(a)). As discussed above, the findings regarding this application confirm that AHAM’s alternative procedure meets, at a minimum, the requirements in the 2025 Energy Code. It does not require any particular project or design to engage in any activity that was not already evaluated during the 2025 Energy Code rulemaking, which published an initial study and negative declaration for the 2025 Energy Code as a whole. For these reasons, the CEC’s approval of AHAM’s application for an alternative procedure is not subject to CEQA under the Common-Sense Exemption, section 15061(b)(3).

## **VI. Conclusion**

As provided above, the approval of AHAM’s application for its bathroom exhaust fan testing and certification program to meet the requirements for manufacturer ratings of airflow for local mechanical exhaust fans specified by the 2025 Energy Code is not subject to CEQA because the CEC’s findings do not meet the definition of a “project” as it is not an activity that has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Even if it is a project, it is exempt from CEQA pursuant to the Common-Sense Exemption (CCR, Title 14, section 15061(b)(3)) because it can be seen with certainty that there is no possibility that the activity will have a significant effect on the environment.