

EXECUTIVE SUMMARY

BSC EF 03-15

SUBJECT

These amendments, in part, complete the certifying rulemaking process following the approved adoption of emergency regulations to the 2013 California Green Building Standards Code (“CALGreen”) on October 21, 2015. These amendments accommodate changes, pertaining to specified plumbing fixture flow rates to align with similar standards recently adopted by the California Energy Commission into Title 20 of the California Code of Regulations.

PROPOSING STATE AGENCY

California Building Standards Commission (CBSC)

SUMMARY OF PROPOSED BUILDING STANDARDS

CBSC, in coordination with the Department of Housing and Community Development (HCD), the Division of the State Architect – Structural Safety (DSA-SS), as well as other stakeholders, has developed emergency regulations that amend the 2013 CALGreen Code (Part 11, Title 24, California Code of Regulations) as follows:

- Adds Sections 5.303.3.2.1 and 5.303.3.2.2 to CALGreen pertaining to mandatory plumbing fixture flow rates for nonresidential urinals

BACKGROUND

On January 17, 2014 (and again on April 25, 2014), Governor Brown proclaimed a State of Emergency to exist throughout the State of California due to severe drought conditions. On April 1, 2015, the governor issued Executive Order No. B-29-15, which directs state agencies to implement immediate measures to save water, increase enforcement against water waste, invest in new technologies, and streamline government response to ongoing drought conditions. The Order cites evidence of a record low snowpack, decreased water levels in reservoirs, reduced river flows, and declining supplies in underground water basins. In addition, the Governor acknowledged that a distinct possibility exists for drought conditions to continue. Further, the Order found that conditions of extreme peril to the safety of persons and property continue to exist due to water shortage and drought conditions with which local authority is unable to cope. To carry out these provisions, Section 30 of the Order directs state agencies to adopt necessary emergency regulations and conduct a public meeting on the regulations prior to their adoption.

Regarding the development of regulations in response to Governor’s Executive Order No. B-29-15, the California Energy Commission issued the following statement within its appliance efficiency rulemaking (Docket No. 15-AAER-1):

On April 1, 2015, California Governor Jerry Brown issued Executive Order B-29-15 directing the Energy Commission to “adopt emergency regulations establishing standards that improve the efficiency of water appliances, including toilets, urinals, and faucets available for sale and installation in new and existing buildings.” Therefore, the Energy Commission removed the language related to toilets, urinals, and faucets from the proposed 45-day language in Docket No. 15-AAER-1. **The Energy Commission held a public hearing and adopted the emergency regulations establishing standards for these water appliances on April 8, 2015.**

In order to align with the Energy Commission's recently adopted emergency regulations and to prevent conflicts between Titles 20 and 24 of the California Code of Regulations, CBSC proposed the adoption of these building standards through the emergency adoption process. CBSC finds that the executive order and proclamation issued by the Governor have clearly indicated priority for the conservation of California's water resources as being essential and critical and that there should be no undue delay in enacting measures to achieve this goal. As stated above, Section 30 of the Order suspended Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code (Administrative Procedure Act) for the development and adoption of regulations needed for purposes of the Order. The permanent adoption of these regulations will align specified standards in Title 20 and Title 24, thereby preventing conflicting regulations throughout the remainder of the effective period of the 2013 California Building Standards Code.

These emergency building standards were approved by the California Building Standards Commission on October 21, 2015. CBSC proposes to the California Building Standards Commission the permanent adoption of specified sections of the recently approved 2013 California Green Building Standards Code ("CALGreen") language.

FINDINGS

The proposed submittal appears to be compliant with the Administrative Procedure Act and State Building Standards Law. Two public comments in support were received during the 45-day public comment period November 6 through December 21, 2015.

Enclosed for commission consideration are the following documents:

- Final Express Terms;
- Final Statement of Reasons;
- Nine-Point Criteria Analysis;
- Updated Informative Digest;
- Fiscal and Economic Impact Statement; and
- Initial Statement of Reasons (for reference only)

COMMISSION ACTION

A nine-point analysis prepared in accordance with Health and Safety Code Section 18930 must, to the satisfaction of the commission, justify the approval of the proposed building standards. The commission must give great weight to the determination and analysis of the proposing agency on each of the nine points.

Any factual determination of the proposing agency shall be considered conclusive by the commission unless the commission expressly finds, and sets forth its reasons in writing, that the determination of the proposing agency is arbitrary and capricious, or substantially unsupported by the evidence. If there is such a finding, the commission may return the proposal to the proposing agency for re-examination of the disputed facts.

The commission may take any one of the following actions on this item:

- **Approve**
- **Disapprove**
- **Approve as Amended**
- **Further Study Required**