

**COMMENTS**

**By**

**California Business Properties Association (CBPA)  
California Building Industry Association (CBIA)  
Building Owners & Managers Association  
Of California (BOMA California)  
NAIOP of California, the Commercial Real Estate  
Development Association**

**On**

**Proposed Green Building Standards  
For Commercial Occupancies  
{Part 11, Title 24, California Code of Regulations}**

**As proposed by**

**The California Building Standards Commission**

**Submittal Date: November 12, 2009**

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**Note:** To assist the reader, comments, questions and suggestions have been highlighted in “blue” and usually follow the BSC proposed language in question. It should also be noted that we have included comments from Schweitzer + Associates, Inc. (S+A).

**101.3 Scope.** The provisions of this code shall apply to the planning, design, operation, construction, ~~replacement~~, use and occupancy, ~~location, maintenance, removal and demolition~~ of every newly constructed building or structure, unless otherwise indicated in this code, or any appurtenances connected or attached to such building structures throughout the State of California.

**Industry Comment:**

**Industry is pleased to see that BSC has made significant changes to this provision in order to clarify that their GB standards only apply to NEW construction.**

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**SECTION 303**  
**PHASED PROJECTS**

**303.1 Phased projects.** For shell buildings and others constructed for future tenant improvements, only those code measures relevant to the building components and systems considered to be new construction or newly constructed shall apply.

**303.1.1 Tenant improvements.** The provisions of this code shall apply only to the initial tenant or occupant improvements to a project.

**Industry Question/Comment: Define “initial”**

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**DEFINITIONS**

**5.102 Definitions.** The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

**CUTOFF LUMINAIRES.** Luminaires whose light distribution is such that the candela per 100 lamp lumens does not numerically exceed 25 (2.5%) at an angle of 90° above nadir, and 100 (10%) at a vertical angle of 80° above nadir. This applies to all lateral angles around the luminaire.

**Industry Question:**

Based on the definition in the USGBC Existing Buildings: Operations and Maintenance Reference Guide: “Full cutoff describes a luminaire having a light distribution in which the candela per 1000 lamp lumens does not numerically exceed 25(2.5%) . . . etc.”

As such, shouldn’t the BSC language be corrected to say 25 is 25% of 100 lamp lumens, not 2.5%?

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**5.106.1 Storm water pollution prevention plan.** For projects of less than one acre, develop a Storm Water Pollution Prevention Plan (SWPPP) that has been designed, specific to its site, conforming to the State Storm water NPDES Construction Permit or local ordinance, whichever is stricter, as is required for projects one acre or more. The plan should cover prevention of soil loss by storm water run-off and/or wind erosion, of sedimentation, and/or of dust/particulate matter air pollution.

**Note:** Assistance with the permit may be obtained from the California State Water Resources Control Board (SWRCB) at: <http://www.swrcb.ca.gov/stormwtr/>, from a Regional Water Quality Control Board, and at local public works departments.

**Industry Comment:**

**1) Language should be added to make it clear that this does not apply to additions, alterations, repairs and improvements that are less than one acre but are taking place on developed sites.**

**2) If the State of California wants to reduce the one acre threshold that requires a SWPPP, there should be a limit in size or definition of “project” so that the enforcement of the code is not left to interpretation. Ultimately, lowering the threshold to include development of small lots may create additional costs/delays**

that could add to the financial stress that small developers are already enduring in California. The code would also add cost to minor improvements to Wal-Mart stores. The following language would simplify the code and put the minimum project size at 10,000 SF:

*5.106.1 Storm water pollution prevention plan. For projects of disturbing more than 10,000 SF but less than one acre of previously undeveloped land, develop a Storm Water Pollution Prevention Plan (SWPPP) that has been designed, specific to its site, conforming to the 2010 State Stormwater NPDES Construction Permit or local ordinance, whichever is stricter, as is required for projects disturbing one acre or more.*

**5.106.4.1 Short-term bicycle parking.** If the project is anticipated to generate visitor traffic, provide permanently anchored bicycle racks within 100 feet of the visitors' entrance, readily visible to passers-by, for 5% of visitor motorized vehicle parking capacity, with a minimum of one two-bike capacity rack.

**Industry Requested Change:**

*5.106.4.1 Bicycle parking. Provide permanently anchored bicycle racks or secured storage within 100 yards of the main building entrance, with a minimum of one two-bike capacity, readily visible to passersby as follows:*

- 1. Under 150,000 SF: 5% of motorized vehicle parking capacity*
- 2. 150,001 to 300,000 SF: 3% of motorized vehicle parking capacity*
- 3. Over 300,001 SF: 3% of motorized vehicle parking capacity up to 300,000 SF plus 0.5% of the motorized vehicle parking capacity over 300,001 SF.*

**5.106.4.2 Long-term bicycle parking.** For buildings with over 10 tenant-occupants, provide secure bicycle parking for 5% of motorized vehicle parking capacity required for tenant-occupants, with a minimum of one space.

Acceptable parking facilities shall be convenient from the street and may include:

1. Covered, lockable enclosures with permanently anchored racks for bicycles;
2. Lockable bicycle rooms with permanently anchored racks; and
3. Lockable, permanently anchored bicycle lockers.

**Industry Requested Change:** Insert “required for tenant occupants” as shown above.

**Industry Requested Change:**

*Move this section to VOLUNTARY (Tier 1) with the following revisions:*

*A5.106.4.2 Long-term bicycle parking. Provide the following percentage of bicycle parking spaces required as secure bicycle parking:*

- 1. Office, Industrial, Financial – 20%*
- 2. Retail, Service Commercial – 20%*
- 3. Public or Commercial Recreation – 10%*
- 4. Park and Ride Lots – 80%*

**5.106.4.3 Changing rooms.** For buildings with over 10 tenant-occupants, provide changing/shower facilities for tenant-occupants only in accordance with Table 5.106.4.3, or document arrangements with nearby changing/shower facilities.

**Table 5.106.4.3**

<u>Number of tenant-occupants</u>	<u>Shower/changing facilities required<sup>2</sup></u>	<u>2-tier (12" x 15" x 72") personal effects lockers<sup>1,2</sup> required</u>
<u>0-10</u>	<u>0</u>	<u>0</u>
<u>11-50</u>	<u>1 unisex shower</u>	<u>2</u>
<u>51-100</u>	<u>1 unisex shower</u>	<u>3</u>
<u>101-200</u>	<u>1 shower stall per gender</u>	<u>4</u>
<u>Over 200</u>	<u>1 shower stall per gender for each 200 additional tenant-occupants</u>	<u>1 2-tier locker for each 50 additional tenant-occupants</u>

<sup>1</sup> One 2-tier locker serves two people. Lockers shall be lockable with either padlock or combination lock.

<sup>2</sup> Tenant spaces housing more than 10 tenant-occupants within buildings sharing common toilet facilities need not comply; however, such common shower facilities shall accommodate the total number of tenant-occupants served by the toilets and include a minimum of 1 unisex shower and two 2-tier lockers.

### **Industry Requested Change:**

**Either delete this section in its entirety (preferred) or move it to VOLUNTARY (Tier 2). Until these issues are resolved, this proposal seems to be a clear violation of BSC Criteria #3, #4, #5 and #6.**

### **Industry Concern/Question:**

**With the exception of the building “flush out” proposal, this section received the most negative comments from Industry.**

**There are major liability/health and safety issues:**

- **Showers:** Would a shower be required in most commercial occupancies where the public has complete access (ie: strip mall, super-market, bank, restaurant, etc?), **or is it an “employees-only” shower?** Must the shower stall and the surrounding area comply with the disabled accessibility provisions of Chapter 11B?
- **How and Where?** If you are doing a strip mall and do not know who the tenants are going to be until post-construction, how would you comply? And does each tenant have to comply?

It should also be noted that the BSC Code Advisory Committee agreed with these concerns and requested that this issue be sent back for Further Study.

**S+A Comment: The health and safety of people is the number one concern and this appears to expose considerable risk for the health, safety and security of unsuspecting users of the shower/changing facilities. Furthermore, we request confirmation that this provision will not limit or eliminate the ability of the building owner and/or tenant to secure/acquire and/or retain liability insurance.**

**5.106.8 Light pollution reduction. Comply with lighting power requirements in the California Energy Code, CCR, Part 6, and design interior and exterior lighting such that zero direct-beam illumination leaves the building site. Meet or exceed exterior light levels and uniformity ratios for lighting zones 1-4 as defined in Chapter 10 of the California Administrative Code, CCR, Part 1, using the following strategies:**

- 1. Shield all exterior luminaires or provide cutoff luminaires per Section 132 (b) of the California Energy Code.**
- 2. Contain interior lighting within each source.**
- 3. Contain all exterior lighting within property boundaries.**
- 4. Automatically control exterior lighting dusk to dawn to turn off or lower light levels during inactive periods.**

### **Exceptions:**

- 1. Part 2, Chapter 12, Section 1205.6 for campus lighting requirements for parking facilities and walkways.**
- 2. Emergency lighting and lighting required for nighttime security.**

### **Industry Comment #1:**

Industry is pleased to see that the BSC has added a second Exception which exempts from this provision “Emergency lighting and lighting required for nighttime security.”

### **Industry Comment #2:**

Strategy 3 states “Contain all exterior lighting with property boundaries”. The USGBC has recognized that this is very difficult and has allowances for .1 vertical footcandles 10-15 feet beyond property lines.

**5.303.1 Meters.** Separate meters or metering device shall be installed for the uses described in Sections 503.1.1 and 503.1.2.

**5.303.1.1 Buildings in excess of 50,000 square feet.** Separate submeters shall be installed as follows:

1. For each individual leased, rented, or other tenant space within the building projected to consume more than 100 gal/day.
2. For spaces used for laundry or cleaners, restaurant or food service, medical or dental office, laboratory, or beauty salon or barber shop projected to consume more than 100 gal/day.

**5.303.1.2 Excess consumption.** Any building within a project or space within a building that is projected to consume more than 1,000 gal/day.

**Industry Comment:**

Industry is pleased that the BSC has added amendments to both portions of 5.303.1.1 which triggers compliance in buildings “projected to consume more than 100/1000 gal/day.”

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**5.304.2 Outdoor potable water use.** For new water service for landscaped areas between 1000 square feet and 5000 square feet (the level at which Water Code §535 applies), separate meters or submeters shall be installed for indoor and outdoor potable water use.

**5.304.3 Irrigation design.** In new nonresidential construction with between 1000 and 2500 square feet of landscaped area (the level at which the MLO applies), install irrigation controllers and sensors which include the following criteria, and meet manufacturer’s recommendations.

**5.304.3.1 Irrigation controllers.** Automatic irrigation system controllers installed at the time of final inspection shall comply with the following:

1. Controllers shall be weather- or soil moisture-based controllers that automatically adjust irrigation in response to changes in plants' needs as weather conditions change.
2. Weather-based controllers without integral rain sensors or communication systems that account for local rainfall shall have a separate wired or wireless rain sensor which connects or communicates with the controller(s). Soil moisture-based controllers are not required to have rain sensor input.

**Note:** More information regarding irrigation controller function and specifications is available from the Irrigation Association at <http://www.irrigation.org/SWAT/Industry/ia-tested.asp> .

**Industry Comment:**

**Concern here would be that depending on size of landscaped area, controllers may not be cost effective resulting in increased hardscape and heat island effect. Installing irrigation controllers involves installation cost of the moisture sensors, along with programming costs to connect to the building energy management system.**

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**5.408.2.1 Documentation.** Documentation shall be provided to the enforcing agency which demonstrates compliance with Section 5.408.2 items 1 thru 4. The waste management plan shall be updated as necessary and shall be accessible during construction for examination by the enforcing agency.

**Industry Comment:**

**Industry is pleased that the BSC has added the amendment clarifying that the documentation simply be “accessible during construction”.**

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**5.408.2.2 Isolated jobsites.** The enforcing agency may make exceptions to the requirements of this section when jobsites are located in areas beyond the haul boundaries of the diversion facility.

**Industry Comment:**

**Industry is pleased that the BSC has added the amendment clarifying that this provision is limited to areas within the “haul boundaries of the diversion facility.”**

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**5.408.4 Excavated soil and land clearing debris.** 100% of trees, stumps, rocks and associated vegetation and soils resulting primarily from land clearing shall be reused or recycled. For a phased project, such material may be stockpiled on site until the storage site is developed.

**Industry Comment:**

***Please move this section to VOLUNTARY Appendix. Consider using/referencing Integrated Waste Management Board standards and practices.***

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**5.410.1 Recycling by occupants.** Provide readily accessible areas that serve the entire building and are identified for the depositing, storage, and collection of non-hazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics and metals.

**Industry Comment: Modify as follows:**

**5.410.1 Recycling by occupants.** Provide readily accessible areas that serve the ~~entire~~ building *occupants* and are identified for the depositing, storage, and collection of non-hazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics and metals.

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**5.410.2.1 Owner’s Project Requirements (OPR).** The expectations and requirements of the building shall be documented before the design phase of the project begins. At a minimum, this documentation shall include the following:

1. Environmental and Sustainability Goals.
2. Energy Efficiency Goals.
3. Indoor Environmental Quality Requirements.
4. Equipment and Systems Expectations.
5. Building Occupant and O&M Personnel Expectations.

**Industry Comment:**

Building occupant/tenant expectations may not be available before the design phase of the project. Building occupant/tenant (if not owner occupied) expectations may be far above and beyond what is required and may hinder development of new construction.

Many commercial buildings are initially constructed as a “shell” occupancy. This section needs language added clarifying that it only applies when this information is known from the very onset of the project.

**5.410.2.5.2 Systems operations training.** The training of the appropriate maintenance staff for each equipment type and/or system shall include, as a minimum, the following:

1. System/Equipment overview (what it is, what it does and what other systems and/or equipment it interfaces with).
2. Review of the information in the Systems Manual.
3. Review of the record drawings on the system/equipment.

**Industry Comment:**

**Please use the alternate language provided below:**

**5.410.2.5.2 Procedures, documentation, tools, and training** shall be provided to the building operating staff to sustain features of the building assemblies and systems for the service life of the building.

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**5.504.2 IAQ Post-construction.** ~~After construction ends, with~~ all interior finishes have been installed, flush out the building by supplying continuous ventilation with all air handling units at their maximum outdoor air rate and all supply fans at their maximum position and rate for at least 14 days while.

1. During this time, maintaining an internal temperature of at least 60 °F, and relative humidity no higher than 60%. If extenuating circumstances make these temperature and humidity limits unachievable, the flush out may be conducted under conditions as close as possible to these limits, provided that documentation of the extenuating circumstances is provided in writing.
2. Occupancy may start after 4 days, provided flush-out continues for the full 14 days. During occupied times, the thermal comfort conditions of Title 24 must be met.
3. For buildings that rely on natural ventilation, exhaust fans and floor fans must be used to improve air mixing and removal during the 14-day flush out, and windows should remain open.
4. Do not “bake out” the building by increasing the temperature of the space.
5. (If continuous ventilation is not possible, flush-out must total the equivalent of 14 days of maximum outdoor air.)

**Industry Comment:** Without question, this single BSC mandatory green building proposal has garnered universal objection from Industry. We strongly object to the BSC decision to move forward with this proposal after the entire BSC Code Advisory Committee voiced such strong concern and suggested this be sent back for extensive Further Study. Over a dozen mechanical engineers have indicated that it is doubtful this provision, as written, can be physically complied with in most of California’s climate zones. There are numerous other technical and enforcement related problems associated with this provision, as indicated at the CAC meeting on August 5<sup>th</sup>. Please delete this provision from the mandatory section and send it back to a focused subcommittee of interested parties so it can be dealt with in a more reasonable fashion. In addition, we strongly urge the BSC not to move this over to the Voluntary provisions until the host of technical, liability and administrative/enforcement issues can be resolved.

**Sample of incoming Industry comments:**

- *My mechanical engineers believe this flush-out will cost thermal damage, condensation, mold, and other such problems, since HVAC equipment and control systems are not designed to do this. It will also be hugely expensive and a waste of energy.*
  - *We also think that such misuse of HVAC equipment outside its normal operating parameters will cause potential liability problems for building owners, equipment manufacturers, mechanical engineering firms and commissioning engineers.*
  - *If the outside air quality is particularly poor (not unheard of in California) mandating excess outside air could make IAQ worse for 14 days, and there is no data to quantify any health or productivity benefit from flush out.*
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5.507.4.2 Interior sound. Wall and floor-ceiling assemblies separating tenant spaces and tenant spaces and public places shall have an STC of at least 40.

Note: Examples of assemblies and their various STC ratings may be found at: [http://www.toolbase.org/PDF/CaseStudies/stc\\_icc\\_ratings.pdf](http://www.toolbase.org/PDF/CaseStudies/stc_icc_ratings.pdf) .

**Industry Comment:**

Industry is pleased that the BSC has changed the STC value of “50” to “40”.

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**APPENDIX: Voluntary Measures**

**S+A Comments:** In order to avoid confusion at the local jurisdictions, it needs to be explicitly stated that each individual measure within a category can be counted to achieve the Tier 1 and Tier 2 totals (not to be confused with double counting within a specific category such as Energy Efficiency). I will assume this is acceptable by BSC, however this clarification should be included in the text of the 2010 code.

**S+A Comment:** Recommend using a similar format as HCD on the voluntary measures (which is much easier format to follow). The current presentation of the BSC Voluntary Measures is very confusing – please simplify. A summary table of number of measures per category either appears to be missing and/or the current Voluntary Tier 1 and Tier 2 nonresidential requirements could be excessive, cost prohibitive and potentially infeasible if a local jurisdiction elects to make all requirements mandatory. The current BSC Checklist imply that Voluntary Tier 1 and Tier 2 are identical in many instances...how would a local jurisdiction distinguish between the two if they decided to make some or all the voluntary measures mandatory. The current presentation of Division A5.7 Nonresidential Occupancies Application Checklist (BSC) is potentially highly problematic as-is. See highlighted Checklist below for possible modifications....

**A5.103 and A5.103.1 Site Selection:**

**Industry Comment:**

This entire section seems to run contrary to property rights and undermines the ability for property owners to develop their property and for local government to serve as the lead entity regarding local planning and land use decisions. It should be noted that, at the present time, there is considerable confusion regarding how SB375 will be implemented.

**1) Suggest striking the entire section A5.103 – Site Selection**

2) In the event this section is not deleted, the BSC should obtain legal advice with regards to their authority to propose building standards relative to local planning and land use issues already under the authority of local cities and counties.

**Industry Comment:**

Once again, it needs to be clarified that all of this applies ONLY to NEW building construction and not to additions, alterations, repairs, upgrades/improvements of existing.

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**A5.103. 4 Brownfield or greyfield site redevelopment or infill area development.**

**Industry Comment:**

**Please Delete or Revise:** There is legal risk in this and the following “voluntary measures”. Brownfields must be properly remediated and cleaned up to the appropriate levels for the new land uses. (see US EPA regulations regarding Brownfields). Certain remediation levels of clean up are sufficient for industrial land uses, however schools and residential units require a much higher level of clean up and in some instances they can not be cleaned up sufficiently to allow for these land uses.

**A5.103. 4.1 Brownfield redevelopment.**

**Industry Comment:**

**Please Delete or Revise:** This may well be illegal: there are health and safety reasons why you can not develop a site while it has been classified as contaminated by a Phase II; it must be remediated first to the appropriate clean up levels for the new land uses – there are health restrictions on developing on Brownfields. (See US EPA regulations regarding Brownfields).

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**A5.106.7 Exterior wall shading.** Meet requirements in the current edition of the California Energy Code and select one of the following for wall surfaces:

1. Provide vegetative or man-made shading devices for east-, south-, and west-facing walls, with 30% coverage to a height of 20 feet or top of exterior wall, whichever is less, for east and west walls. Calculate shade coverage on the summer solstice at 10 AM for east-facing walls and at 3 PM for west-facing walls. Vegetative shade shall reach desired coverage within 5 years of building occupancy.
2. Use wall surfacing with SRI 25 (aged), for 75% of opaque wall areas.

**Industry Comment:**

1) *Please move this section to VOLUNTARY (Tier 2)*

2) *This doesn't appear to be based on much, if any, real science. “Vegetative or man-made shading devices” are not really defined here, and light colored walls probably have negligible real impact on the cooling loads for most California commercial buildings --- some smaller buildings in hot climates may see a benefit but to broadly claim that light colored walls save energy is a stretch.*

3) **This section needs to be clarified as follows: (a) what percentage coverage is required for south-facing walls? (b) What if there are no windows on the east-, west- or south-facing walls – is shade coverage still required? (c) What types of man-made shading devices are contemplated? The way the code is currently drafted, window canopies/shading devices will not satisfy the requirement of continuous shade coverage to a height of 20 feet or the top of the exterior wall. (d)**

Is the requirement 20 feet or the top of the exterior wall, whichever is lower, or higher? Does the 30% exclude the wall penetrations such as windows? Vegetative shade shall reach desired coverage within 5 years. What happens if it doesn't? Is SRI 25 the minimum or maximum? If the walls are shaded, what difference does it make what color they are?

**A5.106.8 Air conditioner condensing unit shading.** Shade 75% of the horizontal surface of air conditioner condensing units without impeding air flow.

**Exceptions to Sections A5.106.7 and A5.106.8:**

1. Projects located in Climate Zone 6 as defined in ASHRAE 90.1.
2. Use of vegetated shade in Wildland-Urban Interface Areas as defined in Chapter 7A of the California Building Code shall meet the requirements of that chapter.
3. Air conditioning units on roofs.

**Industry Comment:**

*Please move this section to VOLUNTARY (Tier 2) with following text.*

*A5.106.8 Air Cooled air conditioner condensing unit shading. Shade 75% of the horizontal surface of air cooled air conditioner condensing units without impeding air flow, or use air cooled equipment with SRI 29 or greater.*

*Exceptions to Sections 5.106.7 and 5.106.8:*

- 1. Projects located in Climate Zone 6 through 8 as defined in ASHRAE 90.1.*
- 2. Use of vegetated shade in Wildland-Urban Interface Areas as defined in Chapter 7A of the California Building Code shall meet the requirements of that chapter.*
- 3. Air conditioning units with a cooling capacity less than 5 tons.*
- 4. Air conditioning units on roofs.*

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**Industry Comment:**

**Combined Heat & Power applications:**

Allow for the savings from combined heat & power applications to be included in the energy savings calculations used to determine compliance with the Tier 1 (15% savings) and Tier 2 (30% savings) thresholds.

Rationale:

Combined heat & power applications deliver synergistic benefits by taking advantage of otherwise wasted energy streams to gain heat and/or generate electricity. Consideration of these savings will incent these applications where applicable and avoid additional energy use required without application of these technologies.

#### **A5.504.6.2.**

HCFC voluntary prohibition:

#### **Industry Comment:**

Delete the voluntary HCFC prohibition mentioned in section A5.504.6.2.

Rationale:

The majority of HCFCs will have been phased out for use in new equipment by 1-1-2010. Some limited uses remain, though, including HCFC-123 use in large chillers and in fire extinguishers. HCFC-123 use in large chillers has negligible impact on ozone depletion given its low ODP value (0.02), it's low pressure in use which results in near-zero emissions (<0.5%), and it's energy efficiency advantage (up to 13.5% more efficient than the alternatives).

In addition, the global warming impact of HCFC-123 is very low (77) and would not be considered a "High-GWP" refrigerant under CARB's definition. The refrigerant used in alternative large chillers, HFC-134a, is considered a "High-GWP" refrigerant by CARB, with a GWP of 1430 (>18 times as potent of a greenhouse gas compared with HCFC-123). HCFC-123 can be used in new equipment as a refrigerant until 2020 and in fire extinguishers until 2015. Preventing the use of HCFC-123 would oppose the intent of CARB to regulate "High-GWP" refrigerants.

#### **S+A Comments:**

##### **Section A5.601.2.4 Voluntary measures for CalGREEN Tier 1....**

**1.a) If a minimum of 10% of parking capacity is required for fuel efficient vehicles, is the parking requirement – 100% (10% of which is fuel efficient) or 110% of current parking requirement? How does this affect FAR if at all?**

#### **S+A Comments:**

##### **Section A5.601.3.4 Voluntary measures for CalGREEN Tier 2....**

**1.a) If a minimum of 12% of parking capacity is required for fuel efficient vehicles, is the parking requirement – 100% (12% of which is fuel efficient) or 112% of current parking requirement? How does this affect FAR if at all?**

**1.b) Table A5.106.11.2.2 has TBD for Min. 3-year Aged Solar Reflectance AND Thermal Emittance – how is a local jurisdiction supposed to interpret this? How is the applicant to prove compliance? This is not acceptable as is – if it is TBD, perhaps it should be deleted until it can be determined to avoid confusion and issues?**