

**NOTICE OF PROPOSED CHANGES  
TO  
BUILDING STANDARDS  
OF THE  
DEPARTMENT OF WATER RESOURCES**

**REGARDING THE CALIFORNIA BUILDING CODE  
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2**

**TO UPDATE SELECT OCCUPANCY GROUPS WITH FLOOD PROVISIONS FOR  
AREAS PROTECTED BY THE FACILITIES OF THE CENTRAL VALLEY FLOOD  
PROTECTION PLAN**

**Notice is hereby given** that the California Building Standards Commission (CBSC) on behalf of the Department of Water Resources proposes to adopt, approve, codify, and publish changes to building standards contained in the California Code of Regulations (CCR), Title 24, Part 2. The Department of Water Resources is proposing building standards related to construction in areas protected by the facilities of the Central Valley Flood Protection Plan where flood levels are anticipated to exceed three feet for the 200-year (1/2% chance of occurrence in any year) flood event.

**PUBLIC COMMENT PERIOD**

A public hearing has not been scheduled; however, written comments will be accepted from **October 2, 2009** until 5:00 p.m. on **November 16, 2009**. Comments may be made using the form on CBSC's web site at [www.bsc.ca.gov/](http://www.bsc.ca.gov/) and either mailed or faxed to:

California Building Standards Commission  
2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833  
Attention: Dave Walls, Executive Director

Written Comments may be faxed to (916) 263-0959 or E-mailed to [CBSC@dgs.ca.gov](mailto:CBSC@dgs.ca.gov).

Pursuant to Government Code Section 11346.5 (a) 17, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period that a public hearing be held.

**POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS**

Following the public comment period, the CBSC may adopt the proposed building standards substantially as proposed in this notice or with modifications that are sufficiently related to the original proposed text and notice of proposed changes. If modifications are made, the full text of the proposed modifications, clearly indicated, will be made available to the public for at least 15 days prior to the date on which the CBSC adopts, amends, or repeals the regulation(s). CBSC will accept written comments on the modified building standards during the 15-day period.

**NOTE: To be notified of any modifications, you must submit written/oral comments or request that you be notified of any modifications.**

## **AUTHORITY AND REFERENCE**

The California Building Standards Commission proposes to adopt these building standards under the authority granted by the Health and Safety Code (H&SC) Section 50465. The purpose of these building standards is to promote the public health, safety and general welfare and to minimize public and private losses due to flood damage to construction in specific flood prone areas of the Central Valley, consistent Water Code Sections 9600 to 9603. The Department of Water Resources is proposing this regulatory action based on authority granted in H&SC Section 50465.

Government Code Section 11152.5

## **INFORMATIVE DIGEST**

### Summary of Existing Laws

Section 50465 of the Health and Safety Code Section 50465 authorizes the Department of Water Resources to propose for adoption and approval by the California Building Standards Commission updated requirements to the California Building Standards Code for construction in areas protected by the facilities of the Central Valley Flood Protection Plan where flood levels are anticipated to exceed three feet for the 200-year flood event.

### Summary of Existing Regulations

Existing regulations related to flood-oriented construction occur in the California Code of Regulations, Title 24, Part 2, Section 1612, 1612A, and Appendix G. In general, these regulations only apply to flood hazard areas as delineated by the Federal Emergency Management Agency, commonly referred to as “100-year” floodplains. Appendix G requirements are elective in nature.

### Summary of Effect

The general purpose of this proposed action is principally to provide a Flood Evacuation Location to persons within homes in areas historically within the natural floodplain that receive protection by the State and Federal flood control facilities, in the event of failure of such facilities causing potential life threatening danger. Anticipated flood depths vary greatly and in some areas may fully inundate single or two story structures. Homes that are proposed to have a Flood Evacuation Location are also proposed to be structurally stable during the flood event, to support the Flood Evacuation Location until persons can be safely rescued.

DWR initially proposed the building standards for new construction and some existing buildings within the Educational, Residential, and Institutional occupancy groups (E, R, and I, respectively). Specifically, DWR proposed mandatory compliance of these proposed Building Standards Code update for occupancy groups E, R-3, and R-3.1, and a voluntary compliance for group R-1, R-2, R-4, and I occupancies. Subsequent to DWR’s initial proposal, as described above, the CBSC’s Code Advisory Committee (CAC) that reviewed DWR’s proposal offered recommendations to improve the proposal. *DWR has elected to concur with the CAC’s recommendations.* For the E occupancy group, the CAC advised that the initial proposal be moved to “further study” and resubmitted the next Code cycle. For the single family residential (SFR) proposals effecting occupancy groups R-3 and R-3.1, the CAC advised that after incorporating recent review comments that it be resubmitted for this Code cycle to be placed in the Code’s voluntary appendices. As the CBSC is electing to create a new California Residential Code (CRC) during this Code cycle, DWR proposes changes to the SFR structures would be reflected in the CRC in addition to the Building Standards Code. Application of the proposed codes to existing buildings vary by occupancy group and generally would be triggered by change of use or by substantial improvement and reconstruction of substantially damaged buildings as defined in the existing code, CCR, Part 2, Section 1612.

#### Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

#### Policy Statement Overview

The proposed action would primarily improve public safety under deep flooding conditions (e.g., depths 3-foot and greater) in the Central Valley from two key flood threats: (1) entrapment and/or drowning due to the lack of a safe evacuation route or an evacuation location, and (2) serious injury or death caused by structural failure due to unbalanced hydrostatic pressures, caused by flood conditions, inside and outside of the building. This proposed regulation is consistent with the many programs and projects under the California FloodSAFE Initiative, implemented by the Department of Water Resources.

### **OTHER MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS**

DWR has determined that there are no other matters prescribed by statute applicable to the Department of Water Resources, or to any specific regulation or class of regulations.

### **MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS**

The Department of Water Resources has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts. The proposed regulations are elective in nature.

### **ESTIMATE OF COST OR SAVINGS**

(An estimate, prepared in accordance with instructions adopted by Department of Finance, of cost or savings to any state agency, local agency, or school district. Provide a copy of the "Economic and Fiscal Impact Statement" (Form 399))

- A. Cost or Savings to any state agency: **NO**
- B. Cost to any local agency required to be reimbursed under Part 7(commencing with Section 17500) of Division 4: **NO**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **NO**
- D. Other nondiscretionary cost or savings imposed on local agencies: **NO**
- E. Cost or savings in federal funding to the state: **NO**

The CBSC contact person designated below will make DWR's initial determination of the estimate of cost or savings available upon request.

### **Cost Impact on Representative Businesses**

DWR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed regulatory action.

### **Cost Impact on Representative Private Persons**

As the proposed code changes are elective in nature, there are no costs to private persons arising from DWR's flood related proposed regulations. However, if a Central Valley community elects to adopt the flood related regulations proposed by DWR for R-3 and R-3.1 occupancy groups, DWR has calculated costs that may reasonably occur as a result of compliance with this proposed regulatory action. These costs were developed for multiple scenarios depending on home size and depth of flooding. One-time (initial) compliance costs for a new home buyer in the Central Valley floodplain may be up to approximately \$12,000 when flooding is anticipated to be severe (e.g., greater than 19-foot deep) but

perhaps as little as \$1,900 for a Flood Evacuation Location in a new home, which is less than 2% of total typical home cost.

### **Initial Determination of Significant Effect on Housing Costs**

DWR has made an initial determination that this proposed regulatory action would not have a significant effect on housing costs as the proposed code changes are elective. Additionally, for the few communities that elect to adopt the regulations, the anticipated compliance cost is less than 2% of total typical home costs. The CBSC contact designated below will make the DWR evaluation of the effect of the proposed regulatory action on housing costs available upon request.

### **Mandate on Local Agencies or School Districts**

DWR has determined that this proposed regulatory action would not impose a mandate on local agencies and/or school districts. DWR is not currently proposing code modifications that affect Central Valley school districts or mandate code changes in any building occupancy groups.

### **INITIAL DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESSES**

The Department of Water Resources has made an initial determination that this proposed regulatory action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with business in other states.

### **DECLARATION OF EVIDENCE**

The Department of Water Resources affirms that the rulemaking action complies with the mandates set forth by the Health & Safety Code Section 18928.

Therefore, the DWR's initial determination of no significant, statewide adverse economic impact directly affecting business in California and their ability to compete with businesses in other states does not require any additional evidence, documents or other evidence to support this action.

The CBSC contact person designated below will make DWR's initial determination of the estimate of cost or savings available upon request.

### **FINDING OF NECESSITY FOR THE PUBLIC'S HEALTH, SAFETY, OR WELFARE**

The Department of Water Resources has made an assessment of the proposed code changes and has determined that these changes do not require a report.

### **CONSIDERATION OF ALTERNATIVES**

The Department of Water Resources must determine that no reasonable alternative considered by the state agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### **AVAILABILITY OF RULEMAKING DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below. This notice, the express terms and initial statement of reasons can be accessed from the California Building Standards Commission website:

<http://www.bsc.ca.gov/>

Interested parties may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or at the California Building Standards Commission website.

**CBSC CONTACT PERSON FOR PROCEDURAL AND ADMINISTRATIVE QUESTIONS**

General questions regarding procedural and administrative issues should be addressed to:

**Mr. Tom Morrison ([tom.morrison@dgs.ca.gov](mailto:tom.morrison@dgs.ca.gov))**

or

**Ms. Jane Taylor ([jane.taylor@dgs.ca.gov](mailto:jane.taylor@dgs.ca.gov))**

**2525 Natomas Park Drive, Suite 130  
Sacramento, CA 95833**

**Telephone No.: (916) 263-0916**

**Facsimile No.: (916) 263-0959**

**PROPOSING STATE AGENCY CONTACT PERSON FOR SUBSTANTIVE AND/OR TECHNICAL QUESTIONS ON THE PROPOSED CHANGES TO BUILDING STANDARDS**

Specific questions regarding the substantive and/or technical aspects of the proposed changes to the building standards should be addressed to:

**Ms. Maria Lorenzo-Lee, P.E.  
California Department of Water Resources, Floodplain Management Branch  
916-574-1409  
[mlorenzo@water.ca.gov](mailto:mlorenzo@water.ca.gov)  
Fax: 916-574-1480**