

**FINDING OF EMERGENCY  
OF THE  
DIVISION OF THE STATE ARCHITECT-STRUCTURAL SAFETY (DSA-SS)**

**REGARDING THE CALIFORNIA ADMINISTRATIVE CODE  
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1**

The adoption of these regulations or order of repeal is necessary for the immediate preservation of the public peace, health and safety, or general welfare, as follows:

**FINDING OF EMERGENCY**

In response to State of Emergency proclamations issued by Governor Brown in January and April of 2014, and in particular Executive Order B-29-15 (issued April 1, 2015), DSA is proposing this emergency building standard regulation to the emergency code pertaining to outdoor water use regulations that was adopted and became effective on June 1, 2015. The Division of the State Architect and their stakeholders has developed the following emergency regulations that amend the 2013 California Green Building Standards Code (Title 24, Part 11, California Code of Regulations, also known as "CALGreen") and the 2013 California Administrative Code (Title 24, Part 1) as follows:

- Adopts section in the California Administrative Code, Title 24, Part 1, Chapter 4 as it relates to process and fees in a new proposed section, Group 3.

**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. 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. Additionally, Section 30 of the Order suspends 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.

DSA both promulgates regulations and enforces them. Due to the time constraints to issue the emergency regulations pertaining to the reduction of potable water use for exterior landscape irrigation for schools and community colleges, DSA was unable to include details of the enforcement and now proposes a subsequent emergency rulemaking addressing the administrative portion. The specific purpose, problem, and rationale and benefits of this proposed adoption to the California Administrative Code is as follows:

**Specific Purpose:** The Department of General Services, Division of the State Architect (DSA) proposes to the California Building Standards Commission (CBSC) to amend California Building Standards Administrative Code, Title 24, Part 1 and adopt new sections 4-501 through 4-507 as Group 3 of Chapter 4. These provisions will ensure that elementary, secondary or community college buildings and facilities constructed or altered pursuant to these regulations are in compliance with the California Code of Regulations, Title 24 related to the design aspects of the sustainable building elements, components, and systems. These regulations will define the administration of the program, the associated rules, the roles and responsibilities of involved parties, and establish a filing fee for applications filed with the DSA for the verification of self-certification of proposed construction project plans and specifications.

**Problem:** The DSA is responsible for the plan review and construction oversight of public schools, community colleges, and state owned facilities within California. This includes the

building code provisions for green building standards, which were first developed in 2008. When this code became effective it consisted of voluntary measures only. In 2010, mandatory measures were adopted and became effective January 1, 2011. The costs of the California Green Building Standards' (CALGreen Code) compliance were absorbed by the Structural program. This has been a verification review by the DSA intake architect when the project is received. The impact has been small; however, with the regulations increasing since 2010, the impact will include additional measures including outdoor water use where more oversight is needed. Verification of self-certification of forms specified by DSA will be used as the means of self-certification. Currently, this is done with the Energy Code compliance and DSA plans to further this verification of self-certification for outdoor water use in response to the current drought emergency. The fees proposed are minimal to cover the cost of the intake architect's review and administrative processes.

**Rationale and Benefits:** Establishing a fee for sustainable construction as a separate DSA program provides a number of benefits, including:

- Separation from the structural program fees.
- Maintenance of structural program fees within their statutory limits.
- Reduction of operating deficits used to administer the intake review for energy and water efficiency code standards.
- Transparency and accountability for the scope and cost of the sustainability (green) program.
- Compliance with the statutory mandate that fees charged by a program cover the cost of its operation.

### **AUTHORITY AND REFERENCE**

(Government Code Section 11346.5(a)(2))

The California Building Standards Commission proposes to adopt these building standards under the authority granted by Health and Safety Code Section 18928. The purpose of these building standards is to implement, interpret, and make specific the provisions of Education Code Sections 17280 through 17317, and 81130 through 81147 and Health and Safety Code Section 16000-16023. The DSA-SS is proposing this regulatory action based on Education Code Section 17310 and 81142, and Health and Safety Code 16022.

### **INFORMATIVE DIGEST**

(Government Code Section 11346.5(a)(3))

An informative digest drafted in plain English in a format similar to the Legislative Counsel's Digest shall include the following:

#### **Summary of Existing Laws**

Section 16022 of the Health and Safety Code authorizes the State Architect to establish building standards for the design, construction and inspection of building systems for state-owned or state-leased essential services buildings. Sections 17310, 81142 and 81053 of the Education Code authorize the State Architect to establish building standards for the design, construction and inspection of building systems for public elementary and secondary schools, and community colleges.

#### **Summary of Existing Regulations**

Existing administrative standards which prescribe administrative requirements for building design and construction of public elementary and secondary schools, and community colleges are promulgated by the Division of the State Architect. These regulations are contained in Title 24, Part 1.

Other relevant CCR titles:

Part 5, the California Plumbing Code, with Chapter 16 for alternate water sources for non-potable applications authored by Department of Water Resources

Part 6, the California Energy Code, which contains minimum energy efficiency standards for non-residential buildings in California promulgated by the California Energy Commission (CEC)

Part 11, the California Green Building Standards Code (CALGreen Code), which contains mandatory and voluntary green building standards for residential, nonresidential, and medical facilities.

Title 17 includes regulations for air quality promulgated by the California Air Resources Board

Title 20, Article 4, Appliance Efficiency regulations, contains CEC standards for water consumption of widely used plumbing fixtures.

Title 23 includes the Model Water Efficient Landscape Ordinance updated by Department of Water Resources.

#### Summary of Effect

This proposed action will make effective, upon adoption and approval by the commissioners, emergency modifications to Title 24, Part 1, Chapter 4, the administrative regulations for buildings within DSA authority, with necessary amendments necessitating immediate action to allow the implementation and enforcement of the newly adopted outdoor water use regulations (Title 24, Part 11, Section 5.304). The verification of self-certification by licensed professionals to design the landscape areas in compliance with the California Water Efficiency Landscape Ordinance (MWELo) will avoid serious harm to the public peace, health, safety and general welfare in response to ongoing drought conditions and the subsequent State of Emergency proclamations and Executive Order B-29-15 issued by the Governor.

#### Comparable Federal Statute or Regulations

There currently are no federal laws or regulations.

#### Policy Statement Overview

DSA is responsible for the development of green building standards for public elementary and secondary schools and community colleges for which no other state agency has authority or expertise.

#### Evaluation of consistency

The proposed action is not incompatible or inconsistent with existing regulations.

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

(Government Code Section 11346.5(a)(4))

The Department of Water Resources develops and maintains the Model Water Efficiency Landscape Ordinance (MWELo) contained within Chapter 2.7 of Division 2 of Title 23 of the California Code of Regulations. DSA adopted the MWELo in the CALGreen Code, Section 5.304, Outdoor Water use and it became effective June 1, 2015.

The Division of the State Architect under the Education Code, Sections 17280 through 17317 and 81130 through 81147 oversees public elementary and secondary schools and community colleges for compliance with the California Code of Regulations, Title 24. The relatively new 2013 California Green Building Standards contained in Part 11 of Title 24 was developed in 2008. DSA is now proposing verification of self-certification emphasizing compliance with energy and water efficiency.

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

(Government Code Section 11346.5(a)(5))

The DSA has determined that projects following this regulation would impose a mandate on local K-12 school and community college districts having to compensate the DSA for verification of self-certification for compliance with the Energy Code and the CALGreen Code's section for outdoor water use.

**FISCAL IMPACT STATEMENT**

- A. Cost or Savings to any state agency: **Unknown**
- B. Cost to any local agency required to be reimbursed under Part 7(commencing with Section 17500) of Division 4: **None**
- C. Cost to any school district required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4: **None**
- D. Other nondiscretionary cost or savings imposed on local agencies: **None**
- E. Cost or savings in federal funding to the state: **None**