

**INITIAL STATEMENT OF REASONS FOR  
PROPOSED BUILDING STANDARDS OF THE  
DIVISION OF THE STATE ARCHITECT-STRUCTURAL SAFETY (DSA-SS)**

**REGARDING THE CALIFORNIA ADMINISTRATIVE CODE,  
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1  
(DSASS EF-03-15)**

The Administrative Procedure Act (APA) requires that an Initial Statement of Reasons be available to the public upon request when rulemaking action is being undertaken. The following information required by the APA pertains to this particular rulemaking action:

**STATEMENT OF SPECIFIC PURPOSE, PROBLEM, RATIONALE and BENEFITS:**

(Government Code Section 11346.2(b)(1)) requires a statement of specific purpose of each adoption, amendment, or repeal and the problem the agency intends to address and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem the agency intends to address for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute.)

**Specific Purpose** - The Department of General Services, Division of the State Architect (DSA) proposes to amend the California Building Standards Administrative Code, Title 24, Part 1 and adopt new sections 4-501 through 4-510 as Group 3 of Chapter 4 related to outdoor water use at public schools and community colleges. These regulations will define the administration of the program, the associated rules and the roles and responsibilities of involved parties. The regulations will also establish a filing fee for applications filed with the DSA for verification of professional self-certification that proposed landscape irrigation documentation and installations are in compliance with the California Code of Regulations, Title 24, Part 11 (California Green Building Standards, also known as the CALGreen Code), Chapter 5, Section 5.304 Outdoor Water Use.

**Problem** - Governor Brown's Executive Order No. B-29-15 includes direction that state agencies implement immediate measures to save water and increase enforcement against water waste. In response, code measures were proposed by the DSA through the emergency rulemaking process to add a mandatory CALGreen Code section regulating the design and installation of landscape irrigation systems. With this addition to Title 24, Part 1, DSA proposes to add enforcement oversight of projects through self-certification by design professionals that the design, documentation and installation of landscape irrigation installations complies with the Model Water Efficiency Landscape Ordinance (as outlined in Title 24, Part 11, Chapter 5, Division 5.3, Section 5.304).

**Rationale and Benefits** – A self-certification procedure, verified by DSA at the completion of both the design and construction phases, will hold design professionals accountable for the design, documentation and installation oversight to ensure compliance with the outdoor water regulations for landscape irrigation. Compliance with the updated Model Water Efficient Landscape Ordinance will make permanent improvements to landscape irrigation and provide long-term outdoor water savings at California public schools and community colleges consistent with their educational mission and programs.

**Proposed Regulatory Actions:** Permanent adoption by DSA of the building standards approved as emergency regulations on July 21, 2015 by the California Building Standards Commission. The rationale for each adoption by chapter, division, and section is listed below.

**ITEM 1. DSA-SS proposes to add Group 3, Article 1, Sections 4-501 through 4-505 to Chapter 4 of the California Administrative Code (Title 24, Part 1)**

**Specific Purpose:**

DSA-SS proposes to add sections 4-501 and 4-505 regarding general provisions for the administrative regulations from the DSA-SS as it relates to outdoor water use for public schools and community colleges.

**Rationale:**

General provisions introduce the subject matter, and provide background information on the related code and other applicable codes, the authority for the enforcement of the regulations, and how to deal with alternate materials and methods of construction.

**Benefit:**

Maintain clarity for the code user.

**ITEM 2. DSA-SS proposes to add Group 3, Article 2, Sections 4-506 and 4-507 to Chapter 4 of the California Administrative Code (Title 24, Part 1)**

**Specific Purpose:**

DSA-SS proposes to add sections 4-506 and 4-507 regarding general information and a definition for “self-certification”.

**Rationale:**

Self-certification is a new term in the administrative code.

**Benefit:**

Maintain clarity for the code user.

**ITEM 3. DSA-SS proposes to add Group 3, Article 3, Sections 4-508 and 4-509 to Chapter 4 of the California Administrative Code (Title 24, Part 1)**

**Specific Purpose:** DSA-SS proposes to add sections 4-508 and 4-509 regarding the procedure for verification of self-certification of the drawings and specifications.

**Rationale:** Enforcement of the new regulations requires oversight of the design professional in responsible charge for compliance with the regulations set forth in the California Green Building Standards.

**Benefit:** Meet the intent of the governor's Executive Order B-29-15 for increased enforcement and start the program with current DSA staff.

**ITEM 4. DSA-SS proposes to add Group 3, Article 4, Sections 4-510 to Chapter 4 of the California Administrative Code (Title 24, Part 1)**

**Specific Purpose:** DSA-SS proposes to add a section 4-510 regarding the flat fee structure for the self-certification verification process.

**Rationale:** This fee will cover the cost of DSA's verification or self-certification, oversight of operations and reporting.

**Benefit:** A flat fee structure is consistent with the anticipated effort to implement this program and provides a simple and consistent approach in all the four DSA regional offices. It will offset the costs of the additional time required to implement the program.

**TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENTS:**

(Government Code Section 11346.2(b)(3)) requires an identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the regulation(s).

The following reports, reviews and analyses were used during the development of the proposed regulations:

1. Governor's Executive Order No. B-29-15, April 2015
2. A review of statutes and codes that govern the energy and outdoor water use standards oversight of design and construction for projects under DSA jurisdiction. The statutes and codes reviewed were:

- California Government Code
- California Education Code
- California Health and Safety Code
- Title 24 California Code of Regulations Parts 1
- Title 23 Model Water Efficiency Landscape Ordinance

**STATEMENT OF JUSTIFICATION FOR PRESCRIPTIVE STANDARDS:**

(Government Code Section 11346.2(b)(1)) requires a statement of the reasons why an agency believes any mandates for specific technologies or equipment or prescriptive standards are required.)

The proposed amendments do not contain any mandates for specific technologies or equipment or for prescriptive standards.

**CONSIDERATION OF REASONABLE ALTERNATIVES**

(Government Code Section 11346.2(b)(4)(A)) requires a description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific action or procedures, the imposition of performance standards shall be considered as an alternate. It is not the intent of this paragraph to require the agency to artificially construct alternatives or describe unreasonable alternatives.)

The adoption of this mandatory measure is responsive to the Governor's Executive Order No. B-29-15 directing state agencies to implement immediate water reduction measures in California. The following alternative to this responsive action was identified and rejected by the DSA due to the reasons listed below:

1. Establish and maintain specialized landscape irrigation design staff to review and approve landscape irrigation design, documentation and installations:
  - a. Significant time and cost would be required to hire train and house staff in the current and upcoming fiscal years; the need for quick action in response to the drought would not allow this delay.
  - b. DSA enforcement of compliance with all the CALGreen Code measures needs a more robust and well developed program. Analyzing appropriate staff to deal with other specialties of the CALGreen Code would include different type of engineers and architects. For example, mechanical engineers are best suited for the energy analysis, and landscape architects for the irrigation design analysis.

**REASONABLE ALTERNATIVES THE AGENCY HAS IDENTIFIED THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.**

(Government Code Section 11346.2(b)(4)(B)) requires a description of any reasonable alternatives that have been identified or that have otherwise been identified and brought to the attention of the agency that would lessen any adverse impact on small business.)

The adoption of this regulation will not have a significant statewide adverse economic impact on small businesses or school and community college districts.

**FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS.**

(Government Code Section 11346.2(b)(5)(A)) requires the facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business)

DSA has identified no facts, evidence, documents, testimony, or other evidence of any significant adverse economic impact on business in proposing this action.

**ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION**

(Government Code Sections 11346.3(b)(1) and 11346.5(a)(10))

The DSA-SS has assessed whether or not and to what extent this proposal will affect the following:

- The creation or elimination of jobs within the State of California.

DSA-SS has determined that this regulatory action may have an economic impact on jobs in California. Specifically, this regulation could result in an increase in jobs that involve the design and installation of water efficient landscaping and irrigation.

- The creation of new businesses or the elimination of existing businesses within the State of California.

DSA-SS has determined that this regulatory action may result in the creation of businesses that specialize in the design and installation of water efficient landscaping and irrigation.

- The expansion of businesses currently doing business with the State of California.

DSA-SS has determined that this regulatory action may have a positive impact on some businesses and adverse impact on other businesses.

- The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

DSA-SS in coordination with CBSC has determined that this regulatory action would have a benefit to the health and welfare of residents and workers, as well as on the environment. Specifically conserving water through efficient landscape irrigation design and installation will mitigate the impact of the current and future droughts.

#### **ESTIMATED COST OF COMPLIANCE, ESTIMATED POTENTIAL BENEFITS, AND RELATED ASSUMPTIONS USED FOR BUILDING STANDARDS**

(Government Code Section 11346.2(b)(5)(B)(i)) states if a proposed regulation is a building standard, the initial statement of reasons shall include the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates.)

The direct cost of compliance for DSA clients (California public school and community college districts) will be approximately \$750,000 per fiscal year, which equates to the estimated amount filing fees to be paid based on a projected workload consistent with that of FY 2014-15. The implementation of the CALGreen fee will provide revenue to recover the cost of verification of the design professional's self-certification and related oversight operations.

#### **DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS**

(Government Code Section 11346.2(b)(6)) requires a department, board, or commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshal to describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from these federal regulations upon a finding of one or more of the following justifications:

(A) The differing state regulations are authorized by law and/or (B) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment.)

These regulations do not duplicate nor conflict with federal regulations.