



**Comments on 45-Day Express Terms for  
Proposed Building Standards of the California Building Standards Commission**

**Regarding Proposed Changes to California Administrative Code  
California Code of Regulations, Title 24, Part 1**

**May 1, 2009**

The Natural Resources Defense Council (NRDC) and Environmental Defense Fund appreciate the opportunity to comment on the 45-Day Express Terms for amendments to Part 1 of Title 24 to implement SB 1473 (Calderon, 2008). We appreciate the direction the Commission is pursuing to create the framework for development of the green building standards. The regulations are a great start, however, they require a few adjustments to ensure collaboration and fully utilize the expertise available. Such amendments would address:

- Clarifying existing authority of the Energy Commission to develop voluntary green building standards, and
- Receiving input on what measures should be voluntary or mandatory

With over 30 years of successful development of energy efficiency standards, which have delivered consistently cost-effective energy savings, the California Energy Commission (CEC) has the record, mandate and capacity to continue to develop such standards, both mandatory and voluntary. In order to allow the CEC to develop voluntary standards in its area of expertise, the regulations should clarify its role. Because the CEC is the expert agency for energy efficiency, to avoid complication, its standards should outweigh recommendations from other agencies in this area.

Considering the California Green Building Standards Code is now voluntary and some measures (perhaps not originally developed by the Commission) will, over time, become mandatory, further input is needed to determine voluntary or mandatory status. For instance, if the Air Resources Board (CARB) develops a standard relating to indoor air quality, then CARB, having expert knowledge of the costs, technologies available and current infrastructure, should recommend if such a standard is ready to become mandatory. Without this clarity, measures that ought to become mandatory may remain voluntary beyond a reasonable amount of time simply due to a slow administrative process. In other words, the Commission may not have the time, capacity or expertise to evaluate whether such a measure is ready to become mandatory. We could easily encourage the other agencies to provide such a recommendation and add value to the process. Additionally, the inclusion of additional state agencies in the process would increase the breadth of knowledge available to the Commission.

To address the concerns regarding the authority of the Energy Commission and the ability of participating agencies to recommend voluntary and mandatory status of green building measures, we urge the Commission to make the following amendments (*in italics*) to the 45-Day language:

**1-1004. Development of Standards**

(a) The commission shall adopt, approve, codify, update, and publish green building standards for occupancies that are not under the authority of another state agency.

*(b) The State Energy Resources Conservation and Development Commission may develop, adopt, and submit to the Commission voluntary energy efficiency standards. These voluntary energy efficiency standards shall be considered the green building standards for the purposes of this Section, to the exclusion of energy efficiency standards recommended by other agencies or the BSC.*

(c) A list of agencies with specific authority to adopt or propose building standards to the Commission include the list of agencies identified in Title 24, Part 2, the California Building Code, (California) Chapter 1, Section 101 et al. The Commission shall work with these agencies to coordinate the adoption of green building standards for residential and non-residential occupancies.

(d) In the development of the building standards pursuant to subsection (a), the Commission shall coordinate a working group consisting of a multi-agency effort, including, but not limited to, all of the following state entities:

1. The California Integrated Waste Management Board.
2. The California Energy Resources Conservation and Development Commission.
3. The California Air Resources Board.
4. The California Department of Water Resources.
5. The California Department of Transportation.
6. The California Department of General Services.
7. The California Department of Public Health.
8. *The Department of Toxic Substances*
9. *The Office of the State Fire Marshall*

(e) The Commission and each state entity specified in subsection (d) shall also consult with representatives from each of the following:

1. Environmental advocacy groups.
2. Interested local government and code enforcement entities.
3. The building construction and design industry.
4. Interested public parties.

(f) The Commission shall seek input from the state entities *and representatives* listed in subsection (d) *and (e)* and consider all input provided during the development of the green building standards. *The Commission shall prepare and make available on its*

*website a written summary of input received and actions taken on input from state agencies and the public. An agency that provides input regarding green building standards, as described in subdivisions (d) and (e), may recommend to the Commission whether the standard should be voluntary or mandatory. Voluntary standards shall exceed mandatory standards where such mandatory standards exist.*

*(g) The green building standards adopted or approved by the Commission pursuant to this section shall, at a minimum, be inserted into the relevant part of the California Building Standards Code, where appropriate.*

Finally, we ask that the Commission clarify the process involved in the “working group” of state agencies. For example, the regulations could clarify how the agencies’ input will be treated by the Commission.

Thank you for the opportunity to submit our recommendations to improve the code. We are available and willing to discuss this matter with you further.

Sincerely,



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